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Trial

1 UNITED STATES DISTRICT COURT
2 SOUTHERN DISTRICT OF NEW YORK

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3 UNITED STATES OF AMERICA,

4 v.

20-CR-188 (JSR)

5 RUBEN WEIGAND and
6 HAMID AKHAVAN,

7 Defendants.

Trial

8 -----x

9 New York, N.Y.

10 March 9, 2021

9:00 a.m.

11 Before:

12 HON. JED S. RAKOFF,

13 District Judge

14
15 APPEARANCES

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Southern District of New York

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(Trial resumed; jury not present)

THE COURT: Please be seated. All right. Mr. Akhavan
is not yet here?

MR. TAYBACK: He is not here yet, your Honor.

THE COURT: But I assume we can discuss evidentiary
issues even in his absence, yes?

MR. TAYBACK: Yes.

THE COURT: All right. Very good.

All right. So first, there is the defense motions
regarding the alleged spoliation of Hargreaves' phone data, and
I don't need further argument on this because it's been fully
briefed, and I thank both sides for their briefs. The part of
the motion that gives the defense leave to re-call
Mr. Hargreaves on their case, but as a hostile witness and,
therefore, subject to effectively cross-examination on direct
at that point, regarding -- and solely regarding -- the iPad

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1 data that was produced for the first time last Wednesday, that
2 portion of the motion is granted.

3 The further motion to impose sanctions and/or to give
4 a jury instruction for an adverse inference is denied.

5 Now, there's a second motion regarding Mr. Hargreaves,
6 and this is the defense intention to cross-examine him
7 regarding a conversation he had with Mr. Weigand in May of 2019
8 at which time Mr. Hargreaves was operating as a cooperator and
9 was recording the conversation but Mr. Weigand did not know
10 this.

11 And I allowed the defense to refer to this on opening
12 statement because it seemed to me that, based on the defense
13 representations, that Mr. Weigand had made exculpatory remarks
14 that was evidence of his intent at a time when he still
15 believed that Mr. Hargreaves' relationship to him was not that
16 of a cooperator.

17 However, I've now seen the transcript of the phone
18 conversation, and I'm not as clear that it really meets the
19 defense suggestion. There is a question put by Mr. Hargreaves:
20 "Are you still dealing with the -- with the group that the
21 traffic -- that we were trying to deal with?" And both sides
22 agree that that's a reference to Eaze. The response is, from
23 Mr. Weigand, "Possibly. I know that there's still -- there's
24 some guys that I know or that I introduced. They are taking
25 care of it. I've seen...hosting and phone numbers and all of

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1 that. So this is -- became to my attention and...because this"
2 and then there's unintelligible further words.

3 Mr. Hargreaves then says: "You should beware on that
4 note..." "In June, you know, we wanted to hand this over to
5 you. Yeah. We're not doing -- providing this service to
6 anyone anymore, and we wanted to hand this over to you when" --
7 and Mr. Weigand interrupts and says: "So this is -- so you're
8 shutting this operation down."

9 Mr. Hargreaves says: We're not. It's just -- we've
10 just -- we're just refocused and we're really -- and I am --
11 iMerchant Pay Direct is purely going to be focused on our
12 banking relationship.

13 And Mr. Weigand says: "Okay. So once it's -- once
14 the thing is, there is -- I don't -- I would really need to
15 check, but there was initial payment and then I was made
16 aware."

17 And Mr. Hargreaves says: "Your domain renewals all
18 came up."

19 And then Mr. Hargreaves further says: "When it comes
20 to June, it needs to come -- basically -- look, whoever we're
21 communicating with -- honest, whoever's been dealing with it,
22 they're fully aware of all of this, but I am just letting you
23 know.

24 Then Mr. Weigand replies: "Check with our guys so
25 that they can take it over."

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1 And finally, Mr. Weigand says: "So...take over so I'm
2 not operationally involved at all, but I've rearranged some
3 people; so that's -- okay. I'll make sure that they are
4 properly aware."

5 Now, maybe I'm missing something, and I'll hear from
6 counsel in a moment, but the -- it seems to me that the most
7 he's saying is that he's no longer personally involved, but he
8 has other people who are handling the Eaze situation, and that
9 doesn't seem to be exculpatory in the same sense it was
10 originally suggested. And it certainly is, as you can tell
11 from just my reading, confusing.

12 So let me hear from defense counsel and then from
13 government counsel.

14 MR. ARTAN: Thank you, your Honor. Well, I'll
15 start --

16 THE COURT: I should note for the record that
17 Mr. Akhavan is now here.

18 MR. ARTAN: I'll start with the end and address the
19 last thing that you said. The fact that it's confusing, I
20 don't think is a limitation on what the defense wants in the
21 sense that --

22 THE COURT: Well, first of all, it's obviously
23 hearsay; so it can't come in for its truth. So it comes in, if
24 at all, as bearing on the state of mind of your client, but if
25 the jury doesn't have a rational basis for inferring anything

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1 about the state of mind of your client from this conversation
2 because it's confusing, that would be a reason not to admit it.

3 MR. ARTAN: Well, the point I'm making is if something
4 is susceptible to two different interpretations, then that's a
5 question that --

6 THE COURT: I agree, that's a separate point. The
7 fact that there are differing interpretations would not be a
8 reason for excluding it. But if it's just hopelessly confused,
9 that would be.

10 MR. ARTAN: Well, I would respectfully say it's not
11 hopelessly confused. The fact is that Mr. Weigand is basically
12 saying he's not operationally involved at all, which I think we
13 can infer can mean that he hadn't been, and that he's
14 rearranged some people, which is the idea that he made
15 introductions, which is a theme that's come up in other
16 witnesses.

17 And, for instance, in the first witness, Michael
18 Tassone, he was saying that his contact was Andreas and Medhat
19 and not our client, and Mr. Hargreaves is painting a very
20 different picture. The picture that Mr. Hargreaves is
21 portraying is inconsistent with this statement by our client.

22 THE COURT: Well, are you suggesting this constitutes
23 withdrawal?

24 MR. ARTAN: No, your Honor.

25 THE COURT: So if he says that he was originally

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1 involved, but he's no longer operationally involved, and we
2 take that most favorably to you, what does that show that is
3 exculpatory?

4 MR. ARTAN: Well, your Honor, our interpretation is
5 that he was never operationally involved, which is consistent
6 with what Mr. Tassone had said.

7 THE COURT: Well, how do you reach that when the
8 conversation begins with Mr. Hargreaves saying: Are you still
9 dealing with the group that we were trying to deal with?
10 Mr. Weigand says: Possibly. I knew that there's still some
11 guys that I know or that I introduced. They are taking care of
12 it.

13 And so how is that consistent with your theory that he
14 was never involved?

15 MR. ARTAN: I'm not saying he was never involved, your
16 Honor. There's a big difference between introducing people and
17 having some minimal involvement at the beginning of a process,
18 and being involved throughout the process, which is what
19 Mr. Hargreaves suggests.

20 The way Mr. Hargreaves has portrayed this situation is
21 everything is Ruben, Ruben, Ruben, and I would suggest that
22 that's not the case and that that's not really what fits with
23 the other witness in the case, Mr. Tassone.

24 THE COURT: I have your point. Let me hear from the
25 government.

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1 MS. DEININGER: Yes, your Honor. The defendants in
2 their opening arguments stated that they wanted to introduce
3 this for the idea that Mr. Hargreaves attempted to solicit
4 inculpatory statements and got nothing. But that's simply not
5 what happened here. He, in fact -- from the government's point
6 of view, this call is actually inculpatory, and he confirmed
7 his --

8 THE COURT: If you think it's inculpatory, then you're
9 delighted to have it come in, right?

10 MS. DEININGER: We have made the decision that we do
11 not intend to introduce it in our case in chief for a variety
12 of reasons, but I do think that the call confirms his knowledge
13 of the scheme and his involvement of it. In fact, there's a
14 reference of having "our guys take care of it."

15 But I think more importantly, the portion that defense
16 seems to be focused on here, which is the statement that
17 Mr. Weigand is not operationally involved but I have rearranged
18 some people, that is only a reflection of his state of mind if
19 you accept it for the truth, that he was not operationally
20 involved and he's rearranged some people. And that is not a
21 valid non-hearsay purpose.

22 I'd also argue that there is an -- that it is a very
23 confusing call, with the back and forth and the amount that's
24 unintelligible, and that introducing it, even if it was a
25 reflection of his then-present state of mind under 8033, would

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1 be unduly prejudicial because of the extent to which it's mixed
2 with description of past events and the difficulty in
3 understanding the back and forth.

4 THE COURT: Well, I hear what you're saying, and I
5 think it's a point I want to hear from the defense in a minute,
6 about the not operationally involved at all is being offered,
7 in effect, for its truth.

8 But at least as I understood it when the defense first
9 raised this before opening statements, what they were saying
10 was it also shows state of mind because here we have a
11 cooperator who is giving leading questions, who's trying to
12 suck Mr. Weigand into making admissions and, instead, what he
13 gets is non-admissions, on the defense view.

14 However, if that's the defense position, then even if
15 I let it in, they could not argue to the jury, you see, he's no
16 longer operationally involved because that would be using it
17 for its truth, not for his state of mind. But what they could
18 argue, arguably, is the context. This is a cooperator. He's
19 trying to get admissions, and he doesn't get them.

20 So okay, there's going to be a colloquy among counsel
21 here.

22 MS. LA MORTE: A mask.

23 THE COURT: You wanted to say something more?

24 MS. DEININGER: No, no. I'm sorry.

25 THE COURT: Let me go back to defense counsel.

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1 MR. ARTAN: Well, your Honor, I would suggest that the
2 Court's question to the government is consistent with what
3 we're trying to say, that -- I mean, the conversation is
4 such -- well, first, there was nothing regarding bank fraud in
5 the conversation, but moving back to the Court's observation,
6 the critical thing here is, your Honor, that the context is
7 critical in the sense that --

8 THE COURT: In some ways I'm a little surprised that
9 you want this in for the following reason. You can't argue for
10 the truth of any of the statements made. You can only argue,
11 as I indicated, for state of mind. They, the government, can
12 argue for the truth.

13 So if they view this as really inculpatory, as a
14 mincing admission, but an admission notwithstanding that,
15 they're going to be able to argue that, if I allow this in.
16 You are not going to be able to argue, oh, no, he wasn't
17 operationally involved. So I just want to make sure you
18 understand that if we go further down this road.

19 MR. ARTAN: I do understand that, your Honor. I
20 appreciate that, but there has been some emphasis on the fact
21 that the context is important, and I think the defense view has
22 been strengthened by the way Mr. Hargreaves has been
23 testifying; in essence, saying that Ruben Weigand is
24 responsible for everything, every e-mail is him, everything
25 that's going on is him, everything, everything, everything.

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1 And if Mr. Weigand was giving, let's say admittedly a
2 confusing statement, this would have been the perfect
3 opportunity for Mr. Hargreaves to say, yeah, well, what about
4 all the stuff you did, all the operational stuff you did? Or
5 even when he says, I'm no longer operational, oh, well, when
6 did you stop that? Nothing along the lines of what you would
7 expect from a cooperator who's trying to get admissions from
8 the target of investigation.

9 The fact is when Mr. Weigand says I'm no longer
10 operationally involved, I rearranged some people, and I'll just
11 pass it on, there's no follow up because the witness actually
12 knows that Mr. Weigand really never was operationally involved,
13 that Mr. Weigand --

14 THE COURT: So that's an interesting point. You're
15 saying the very questions that were put by Mr. Hargreaves are,
16 you think, inferentially exculpatory?

17 MR. ARTAN: Yes.

18 THE COURT: Because a cooperator would have put more
19 pointed questions. I mean, I think that's not an impossible
20 argument. I can think the government might well argue and
21 maybe elicit from Mr. Hargreaves, if we allow this in, that I
22 was just being much more delicate because I didn't want to tip
23 him off that I was cooperating, which I would have if I'd given
24 something more explicit. But, you know, that's a jury
25 question.

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1 All right. I'm going to allow it in. I'm going to
2 allow it in, and I will instruct the jury, when you offer it,
3 that nothing that's being said is being offered for the truth
4 but just for state of mind. The government, by contrast, can
5 use it for its truth, if you feel it's inculpatory, and I will
6 let the jury know that, if you go down that line.

7 MS. DEININGER: Your Honor, I just wanted to raise one
8 additional point, which is that my understanding is that the
9 defense is seeking to use this information to impeach
10 Mr. Hargreaves and I'm --

11 THE COURT: No, I don't think it's necessarily to
12 impeach Mr. Hargreaves. It is to establish or try to establish
13 that their guy was so uninvolved and innocent, that when even
14 asked by a secret cooperator, how about this, he didn't give
15 the answers you would have expected someone who was involved in
16 the conspiracy to give. I think that's the argument. I don't
17 think that's necessarily impeachment. Maybe it is, but it's
18 also independent evidence of state of mind.

19 All right. Let's see what else we have. So I think
20 another issue that was raised is when the government introduces
21 Mr. Weigand's post-arrest statement, portions of it, the
22 defense wanted to include other portions under the rule of
23 completeness.

24 I think the defense really exaggerates the scope of
25 the rule of completeness. This is designed to deal with things

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1 like someone introduces half a sentence and not the other half
2 of a sentence. It doesn't open the door to pages and pages of
3 what is otherwise clearly hearsay just because the government
4 is offering something.

5 The only portion so far -- I'll hear from defense
6 counsel in a minute -- that really I think might be admissible
7 under the rule of completeness is after the agent says: "You
8 understand English and speak English, right?" And Mr. Weigand
9 says: "I'm okay-ish, I think." And it seems to me that the
10 defense is entitled to have that as context so they can, if
11 they wish, argue, well, he didn't really understand the
12 question, or something like that, if they want to make that
13 argument.

14 So I would allow in, subject to hearing from the
15 government, that question and answer, but I don't see anything
16 else that would come in under the rule of completeness.

17 So let me hear from defense counsel and then from
18 government counsel.

19 MR. ARTAN: Your Honor, I could address it briefly
20 from memory. I didn't realize we'd be talking about it this
21 morning; so I don't have the transcript handy.

22 THE COURT: Oh, okay. We can postpone it. This won't
23 come up for a while anyway; so we can take this up at the next
24 break or something like that.

25 MR. ARTAN: That would be great. Thank you, your

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1 Honor.

2 THE COURT: All right. Very good. All right. That's
3 all on my list. Is there anything else anyone else wanted to
4 raise?

5 MS. LA MORTE: Not from the government.

6 MR. TAYBACK: Not at this time for Mr. Akhavan.

7 THE COURT: All right. Very good. So it's 9:30.
8 We'll take a break. Everyone should be back here at 9:45, and
9 if the jury's here, we'll bring them right up at that time. So
10 I'll see you then.

11 (Recess)

12 THE COURT: Please be seated. Although, I think the
13 jury is just about to come.

14 MR. FOLLY: Your Honor, should we bring the witness
15 in?

16 THE COURT: Yes, please.

17 THE LAW CLERK: Jury entering the courtroom.

18 (Jury present)

19 THE COURT: Please be seated. Good morning, ladies
20 and gentlemen, and thank you, as always, for your great
21 promptness. And unless I am mistaken, there is a little hint
22 of spring in the air; so -- but we've got important work to do
23 here. So let's continue.

24 OLIVER HARGREAVES,
25 DIRECT EXAMINATION (Resumed)

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Hargreaves - Direct

1 BY MS. LA MORTE:

2 Q. Good morning, Mr. Hargreaves.

3 A. Good morning.

4 MS. LA MORTE: Your Honor, at this time, the
5 government offers Weigand Exhibit 28, which is an audio file.
6 The parties have stipulated to the authenticity of this audio
7 file and, in addition, we would just offer 28T to be offered to
8 the jury for a demonstrative exhibit.

9 THE COURT: Received for those purposes.

10 (Defendant's Weigand Exhibit 28 received in evidence)

11 MS. LA MORTE: Your Honor, I'm going to -- Mr. McLeod
12 is not available right now; so I'm going to proceed, and when
13 he enters back in the courtroom to play the exhibit, we'll do
14 it at that time.

15 THE COURT: Okay.

16 MS. LA MORTE: Apparently, he's back.

17 Mr. McLeod, can you publish for the jury Weigand 28T,
18 starting at page 3, line 14. And then, Mr. McLeod, as soon as
19 you're ready, if you could play Weigand Exhibit 28 beginning at
20 this portion and then playing through page 7, line 3,
21 corresponding to Weigand Exhibit 28T.

22 (Audio played)

23 MS. LA MORTE: Thank you, Mr. McLeod.

24 BY MS. LA MORTE:

25 Q. Mr. Hargreaves, did you hear that?

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Hargreaves - Direct

1 A. Yes, I did.

2 Q. Do you recall this call?

3 A. Yes, I do.

4 Q. Who were the participants in the call?

5 A. Myself and Ruben Weigand.

6 Q. Roughly when did this call occur?

7 A. In -- in May -- May 2019.

8 (Continued on next page)

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Hargreaves - Direct

1 Q. Was that before your arrest or after your arrest?

2 A. After my arrest.

3 Q. Was this while you were cooperating with the government?

4 A. Yes, it was.

5 Q. At this time were you more actively involved or less
6 actively involved in the Eaze scheme?

7 A. Less actively involved.

8 MS. LA MORTE: Mr. McLeod, if you could just publish
9 28-T, again for the jury. I will direct you to page 3, lines
10 16 to 17.

11 Q. Mr. Hargreaves, do you see that?

12 A. Yes, I do.

13 Q. CS here, based on your recollection of this call, is that
14 referring to you?

15 A. Yes, I am -- yes, it is. Excuse me.

16 Q. It states here: Are you still dealing with the -- with the
17 group that the traffic -- that we were trying to deal with?

18 Generally speaking, what does that refer to?

19 A. Eaze.

20 Q. Thank you.

21 MS. LA MORTE: We can take that down, Mr. McLeod.
22 Thank you very much.

23 Q. Mr. Hargreaves, when we left off yesterday we were looking
24 at communications involving a number of participants, including
25 Ruben.

K39MWEI2

Hargreaves - Direct

1 Do you recall that?

2 A. Yes, I do.

3 MS. LA MORTE: Mr. Levine, can you publish Government
4 Exhibit 4004 in evidence. Please go to pages 83 and 84.

5 Q. Let's start with the date. Do you see the date in the gray
6 bubble on the top?

7 A. Yes, I do.

8 Q. What is that date?

9 A. June 12, 2018.

10 Q. Can you read the comments on this page.

11 MS. LA MORTE: Actually, your Honor, may I have
12 permission for Mr. Hargreaves to read the comment to the
13 deleted account and myself to read the comments ascribed to
14 Mr. Weigand. Thank you.

15 Q. Mr. Hargreaves, I am going to ask you to read the comments
16 of the deleted account, and I will read the comments of Mr.
17 Weigand.

18 A. "Can I check if you have any comments/amendments on the
19 completed WC forms we have sent through? We are holding off
20 securing wet signatures until we have your confirmation and
21 would like to proceed soonest."

22 Q. "Hey, am checking with the bank."

23 A. "Great. Thank you."

24 Q. "Hey, all. Hot Robots is associated to the last business
25 model at WC. I tried to push, but I don't see this to be

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Hargreaves - Direct

1 successful at all. You've prepared Hot Robots WC apps before
2 and they've been submitted and declined, so coming up with
3 another business model doesn't seem to be a great idea."

4 MS. LA MORTE: Thank you, Mr. Levine. Actually, you
5 can stay on page 83.

6 Q. Just to remind us, Mr. Hargreaves, the references to WC in
7 here, what do you understand them to be references to?

8 A. Wirecard.

9 MS. LA MORTE: Mr. Levine, you can take that down.

10 Q. Mr. Hargreaves, we have looked at a number of
11 communications yesterday pertaining to banks. Do you recall
12 those communications, generally?

13 A. Yes, I do.

14 Q. Did you or any member of your team have access to the
15 merchant processing accounts that you prepared fraudulent
16 applications for?

17 A. No, we did not.

18 Q. Was your team privy to merchant account transactional
19 records, such as bank statements or the like, from the merchant
20 processing accounts?

21 A. To which merchant accounts are you referring?

22 Q. Pertaining to the shelf company merchant processing
23 accounts.

24 A. No, we did not.

25 Q. We are going to take a look at one additional communication

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Hargreaves - Direct

1 on this.

2 MS. LA MORTE: Mr. Levine, can you put up on the
3 screen and publish Government Exhibit 3956.

4 Q. Mr. Hargreaves, what is this?

5 A. This is an e-mail from my ProtonMail account.

6 Q. Who do you understand it to be from?

7 A. It's from the email account EUprocessing.

8 Q. Who do you understand that to be?

9 A. Ruben.

10 Q. Can you read the e-mail aloud, please.

11 A. "Hey, we got some feedback from Kalixa on Linebeck. The
12 following is needed."

13 Q. Actually, let me pause you there. When it states, "we got
14 some feedback from Kalixa on Linebeck," quickly remind us what
15 Kalixa is.

16 A. Kalixa is an acquiring bank in Europe.

17 Q. What about Linebeck?

18 A. It's a shelf company that my team acquired for inclusion
19 within the a fraudulent application pack to be submitted to the
20 aforementioned bank.

21 Q. You can continue reading the portion in quotes.

22 A. "At the same time, we'd like to request some additional
23 documents/items we were not able to locate in the original
24 attachment: Log-in details for the web page, financial record
25 or business plan. Could you please take care of that."

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Hargreaves - Direct

1 Q. Directing your attention to the portion in quotes, what do
2 you understand Ruben to be quoting here?

3 A. Feedback from the bank, Kalixa.

4 Q. Then it states on the bottom: "Financial record or
5 business plan. Can you please take care of that."

6 Did you and your team in fact take care of that?

7 A. Yes, we did.

8 Q. Did you provide a business plan for any of the shelf
9 companies to Weigand?

10 A. Yes, we did.

11 MS. LA MORTE: Mr. Levine, can you put up and publish
12 on the screen Government Exhibit 3958.

13 Q. Mr. Hargreaves, what's the subject of this e-mail?

14 A. Johnson NYC and Linebeck business plans.

15 Q. Who is the e-mail from or who do you understand it to be
16 from?

17 A. Michele Furlan.

18 Q. Who do you understand it to be directed to?

19 A. Ruben at EUprocessing, Marty25@protonmail, myself, and Kate
20 Farmer.

21 Q. Do you see the attachments on the bottom?

22 A. Yes, I do.

23 Q. What are these attachments?

24 A. Business plans for two websites or two e-commerce
25 businesses we created.

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Hargreaves - Direct

1 MS. LA MORTE: Mr. Levine, let's go to page 18 of this
2 exhibit.

3 Q. Mr. Hargreaves, can you read this aloud.

4 A. Organikals business plan.

5 Q. Who created this?

6 A. My team.

7 Q. Why?

8 A. Because it was requested.

9 Q. Who requested it?

10 A. Ruben did.

11 Q. Is this a real business plan or a fake business plan?

12 A. It's a fake business plan.

13 MS. LA MORTE: Let me direct your attention to page
14 20, Mr. Levine. You can highlight the whole thing. That's
15 fine.

16 Q. Mr. Hargreaves, you see in the middle where it says company
17 ownership?

18 A. Yes, I do.

19 Q. Can you read aloud the first line.

20 A. Organikals is an e-commerce website business operated by
21 Linebeck Ltd.

22 Q. Under that it says daily operations. Do you see that?

23 A. Yes, I do.

24 Q. Then there is a list of sorts under these daily operations,
25 is that right?

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Hargreaves - Direct

1 A. A list of what?

2 Q. A list of sorts underneath daily operations, is that
3 correct, or no?

4 A. Yes, there is a list.

5 Q. Could you just read aloud the first four lines of this
6 list.

7 A. "The hours of business will be 24/7 and closed on all major
8 holidays. All contact will be based online. We will perform
9 most of these functions on a daily basis."

10 Q. Then underneath, just read the next two lines.

11 A. "Checking invoices against payments, purchasing inventory."

12 Q. Were any of these operations actually performed?

13 A. No, they were not.

14 MS. LA MORTE: Let's go to page 24 of this exhibit,
15 Mr. Levine.

16 Q. Mr. Hargreaves, you see market analysis summary there?

17 A. Yes, I do.

18 Q. Was there any market analysis that was actually done?

19 A. No.

20 MS. LA MORTE: Let's zoom out of that and go to page
21 29, Mr. Levine.

22 Q. Mr. Hargreaves, do you see here where it says financial
23 plan?

24 A. Yes.

25 Q. Was there any sort of financial plan that was actually

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Hargreaves - Direct

1 created and implemented?

2 A. No.

3 MS. LA MORTE: We can zoom out of that. Mr. Levine,
4 let's just briefly go to page 2 of this exhibit.

5 Q. Mr. Hargreaves, what is this?

6 A. It's a fictitious business plan created for one of our
7 fictitious websites, greenteacha.

8 Q. Was that one of the fictitious websites that you and your
9 team created?

10 A. Yes, it was.

11 MS. LA MORTE: We can take those down, Mr. Levine.
12 Thank you.

13 Q. I want to discuss a few other aspects of the Eaze scheme,
14 Mr. Hargreaves. Earlier in your testimony you mentioned
15 Webshield. Do you recall that?

16 A. Yes, I do.

17 Q. Can you remind us what Webshield is.

18 A. It is a software as a service provided to acquiring banks,
19 specifically the compliance departments of acquiring banks. It
20 is a software that allows them to enter the details of all of
21 the contents of a merchant application pack, allowing them to
22 assess effectively whether they wish to accept or decline the
23 merchant application pack for which the details have been
24 entered into this software system.

25 Q. Was Webshield used in connection with the Eaze scheme?

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Hargreaves - Direct

1 A. Yes, it was.

2 Q. Can you describe how so.

3 A. We were given access to the software allowing us to examine
4 the quality of the application packs that we were creating
5 through a similar -- with a similar eye as that of a compliance
6 department within a bank. We were able to improve them based
7 on the scoring that we were seeing within the software.

8 Q. Whose product was Webshield? Who owned that product?

9 A. The owner, to my understanding, was a man called Christian
10 Chmiel.

11 MS. LA MORTE: Mr. Levine, can you put up Government
12 Exhibit 4004 in evidence.

13 Q. Mr. Hargreaves, this is the Olliebaba chat that we have
14 looked at before?

15 A. Correct.

16 MS. LA MORTE: Mr. Levine, can you go to page 18,
17 please.

18 Q. Mr. Hargreaves, directing your attention to the very top,
19 the gray bubble, can you read that.

20 A. "Ray CE invited Christian Chmiel."

21 Q. Let's read these chats. Just to remind everyone, which of
22 these chats are yours?

23 A. My chats are in the green bubbles.

24 Q. Can you read your chats and then I will read Christian
25 Chmiel chats.

K39MWEI2

Hargreaves - Direct

1 A. "Christian, nice to meet you."

2 Q. "Pleasure to meet you. Let me know if you have questions."

3 A. "Many thanks and lots, exclamation mark. If you can
4 provide me with some log-ins to Webshield, that would be a
5 great start and then if we can arrange a call for tomorrow,
6 that would be ideal or at your earliest convenience."

7 Q. When you were asking Christian Chmiel to provide some
8 log-ins to Webshield, what do you mean by that?

9 A. I am asking him to provide us with account access to the
10 Webshield software suite.

11 MS. LA MORTE: Let's go to page 19, please.

12 Q. I will start reading Christian Chmiel's chat and then you
13 can read your chat.

14 "Perfect. Sounds good." Then Ray says -- what does
15 Ray say there?

16 A. "Agreed."

17 Q. I'm sorry. Did you see where I was reading,
18 Mr. Hargreaves? "Perfect, sounds good."

19 A. Excuse me. "God, I'm happy now. Should have done this
20 before."

21 Q. Then what do you say?

22 A. "Agreed." Smiley face.

23 Q. Let's go to page 12 of 13. You see Ray's comment right
24 underneath IRS. You say: "Hi, Ray." You see that?

25 A. Yes.

K39MWEI2

Hargreaves - Direct

1 Q. Can you please read Ray's comments through that first
2 bullet point on the third comment.

3 A. "Take a look at this, please, and let's discuss."

4 Q. Keep going.

5 A. "Please delete it. Please don't keep it. It is super
6 important to delete after as it's a Webshield report."

7 Q. Read the next part.

8 A. "Gents, here the results of the checks. Hot Robots
9 Limited. Problematic merchant name as there is a binary/forex
10 scam out there operated by Hot Robots Limited. Web link."

11 Q. You could stop there. That's fine.

12 Going back up to the chat attributable to Ray that you
13 just read, you see where it says, "please delete it, please
14 don't keep it, it's super important to delete after as it's
15 Webshield report"?

16 A. Yes, I do.

17 Q. What do you understand him to mean by that?

18 A. He's telling me it's important to delete the Webshield
19 report that he has provided me.

20 Q. Why is that? What is your understanding as to why it would
21 be important to delete that?

22 A. Because it's a report that somebody who does not work in
23 the compliance department of an acquired bank should not have
24 access to.

25 MS. LA MORTE: Let's go to page 16, Mr. Levine.

K39MWEI2

Hargreaves - Direct

1 Q. Let's start with your comment at the top, Mr. Hargreaves,
2 and you can read your comments and I will read the Ray CE
3 comments. OK?

4 A. Yes.

5 Q. Go ahead.

6 A. "Reviewing now. Will ping you shortly."

7 Q. "Cool. These are old corps that have been used." When you
8 said I have corps, I thought they were fresh."

9 A. "These companies were bought as dormant shelf companies,
10 checks on companies' house show they were inactive when we
11 bought them, and that they were not resold or used by anyone."

12 Q. "Looks like the F'ers lied. Do you have any clean or new
13 corps? If not, let's at least run the whole list of corps
14 because we may not be able to use any of them. I can't believe
15 the Hot Robots issue. This is gonna cause a problem. We need
16 clean corps immediately." We can stop there.

17 You see the references to corps throughout this chain
18 that we just read?

19 A. Yes, I do.

20 Q. What is that a reference to?

21 A. Shelf companies.

22 Q. When Ray says towards the bottom, a few up from the
23 highlight, "if not, do you have any clean or new corps, if not,
24 let's at least run the whole list of corps because we may not
25 be able to use any of them," what do you understand him to mean

K39MWEI2

Hargreaves - Direct

1 by that?

2 A. I understand that he means that he wants them to be run
3 through Webshield to ascertain whether they have any -- whether
4 they are companies that have been used previously.

5 Q. Why might that be an issue?

6 A. Because if the software turns up something that is negative
7 surrounding a company and we find that out after submitting it
8 to an acquiring bank, we can no longer use that company and,
9 therefore, it is being -- not anybody waste time. It would
10 also cost money to buy a new company.

11 Q. In the string that we read the reference to clean corps,
12 what do you understand that to mean?

13 A. Companies that have been not used, companies that have, as
14 the title shelf company implied, literally come off the shelf
15 unused, brand-new to us, incorporated, and not used prior to
16 our use.

17 MS. LA MORTE: Mr. Levine, let's go to page 95.

18 Q. You see, Mr. Hargreaves, Ray's comments in the middle,
19 beginning with "copy, thank you?"

20 A. Yes.

21 Q. Can you read those three comment bubbles.

22 A. "Copy. Thank you. Please send me the pack on Linebeck
23 or -- and Organikals so I can go over the WS reports, etc.
24 Make sure we're not missing anything at all."

25 Q. Then what do you say?

K39MWEI2

Hargreaves - Direct

1 A. "KF sending now."

2 Q. Looking at that second comment bubble for Ray, "please send
3 me the pack on Linebeck and Organikals so I can go over the WS
4 reports."

5 What do you understand the WS reports to refer to?

6 A. Webshield reports.

7 MS. LA MORTE: Mr. Levine, we can leave that up. Can
8 we put up next to it Government Exhibit 3939 in evidence.

9 Q. Mr. Hargreaves, looking at Government Exhibit 3939, you see
10 the email on the bottom?

11 A. Yes.

12 Q. Who do you understand that e-mail to be from?

13 A. Kate Farmer.

14 Q. Who do you understand her to be sending it to?

15 A. To EUprocessing.

16 Q. Who do you understand that to be?

17 A. Ruben.

18 Q. Let's read the first line of the body of the e-mail,
19 please.

20 A. "Hi, EUP. Attach is our delivery report for Linebeck,
21 Organikals, including our review on Webshield."

22 MS. LA MORTE: We can zoom out of those and go to the
23 attachment on Government Exhibit 3939, Mr. Levine. Keep going
24 down. Can you blow up this bottom portion. You can actually
25 blow up the whole thing on that page. This is page 3 of

K39MWEI2

Hargreaves - Direct

1 Government Exhibit 3939.

2 Q. Focusing on the bottom portion here, you see where it says
3 high risk. Do you see that?

4 A. Yes.

5 Q. Let's go immediately above that. Can you read the part in
6 bold that's between the two charts.

7 A. "Webshield report with above red or yellow false flags
8 partially overruled, open bracket, cannot overrule, many
9 obvious false red flags, close brackets. Organikals."

10 Q. Then looking at this chart below there, you see where it
11 says high risk?

12 A. Yes.

13 Q. Is there some sort of risk scoring system that's associated
14 with Webshield?

15 A. Yes, there is.

16 Q. Can you explain that to us.

17 A. The software would look at multiple different areas
18 surrounding the company that was -- the information of the
19 company that was plugged into the software and also to, for
20 example, the domain, the history of the domain, the hosting,
21 the address, for example, where the company was registered,
22 details surrounding the website, many, many different factors.

23 And the result of assessing all of that information,
24 it would create a traffic light -- it had a traffic light and
25 percentage score. As you can see on the left, it says high

K39MWEI2

Hargreaves - Direct

1 risk in red. Top left-hand corner it says high risk and 27
2 percent.

3 As you can imagine from the color and the percentage,
4 it's classed as a high-risk application. However, if you look
5 in the middle, you will see there is a yellow box with open
6 written on it, the green box with approve, and a red box with
7 decline. Decline is self-explanatory. Approved is
8 self-explanatory. Open means it's -- the department can go --
9 what you would expect to be the compliance department of a bank
10 to be able to go back and ask questions and, based on their
11 responses to those questions, decide whether to decline or to
12 approve said merchant application.

13 Q. Generally speaking, were there steps that your team would
14 take to try to get a better risk score for these shelf company
15 applications?

16 A. Yes, there were.

17 Q. Just give us some examples.

18 A. A company that was, for example, at its office registered
19 as a virtual office was something that we could address or an
20 office where it was a WeWork style building, and potentially
21 the software would spit out that there happened to be another
22 business also located at that WeWork address, for example, that
23 had a business activity that they did not like the look of, we
24 can make sure that the address for the company was a standalone
25 address, which we would do.

K39MWEI2

Hargreaves - Direct

1 MS. LA MORTE: We can take that down, Mr. Levine.

2 Q. Mr. Hargreaves, let's focus momentarily on MCC codes for
3 the shelf companies. Do you recall earlier we discussed MCC
4 codes?

5 A. Yes.

6 Q. Were you involved in discussion regarding this selection of
7 MCC codes for the shelf companies using the scheme?

8 A. Yes.

9 MS. LA MORTE: Mr. Levine, let's put back up
10 Government Exhibit 4004, page 32.

11 Q. Mr. Hargreaves, you see your first comment in green on this
12 page?

13 A. Yes.

14 Q. Then you see the comment below that?

15 A. Yes.

16 Q. Who do you understand the author to be of the comment below
17 your comment?

18 A. Christian Chmiel.

19 Q. We are going to read starting here, and then we will go on
20 to page 33. You can read your comments, and I will read
21 Christian Chmiel's comments. So go ahead.

22 A. "We will look for some low-risk MCCs this morning,
23 communicate the plan to the relevant banks for their buy-in and
24 get them done."

25 Q. "Gents, we will go for the logistics and music stores,

K39MWEI2

Hargreaves - Direct

1 musical/sheet music for the two temporary apps. The
2 application would then reflect a ridiculous high transaction
3 volume forecast per month, 50 MIO, that will slowly be ramped
4 up over time. Please keep in mind, no matter how good the
5 sites will be, there will be plenty of red flags (age of the
6 website, traffic, etc.) that the compliance team will need to
7 'swallow.'

8 Can you go to the next page. Do you see your comment
9 at the very top?

10 A. Yes.

11 Q. What does it say?

12 A. "We have started work. We have on a pack for MCC 5733
13 music instruction."

14 Q. Going back to page 32, Mr. Hargreaves, you see where you
15 say, "we will look for some low-risk MCCs this morning"?

16 A. Yes.

17 Q. What do you mean by low-risk MCCs?

18 A. In the terms of type of businesses that websites conduct,
19 we would look at everything in terms of how it was perceived by
20 the acquiring banks we were submitting applications to. A
21 low-risk MCC would be a business that had a low risk of charge
22 backs, a low risk of, to put it in simple terms, issues for the
23 acquiring bank. Because we -- we had effectively carte blanche
24 of what we could submit to the bank based on the fact that they
25 were fictitious applications. We obviously wanted to try to

K39MWEI2

Hargreaves - Direct

1 pick MCC codes that were -- we considered to be very low risk
2 and, therefore, appealing to the acquiring banks when we were
3 submitting them.

4 MS. LA MORTE: Let's go to the next page again, Mr.
5 Levine, page 33.

6 Q. Then you state: "We have started work. We have on a pack
7 for MCC 5733 music instruction."

8 Do you see that?

9 A. Yes.

10 Q. Is that a reference to a particular MCC code associated
11 with one of the shelf companies?

12 A. Yes, it is.

13 MS. LA MORTE: We can take that down, Mr. Levine.

14 Q. Mr. Hargreaves, I want to switch gears now and talk more
15 about your arrest and cooperation with the government. Earlier
16 you testified that you were arrested in the United States in
17 September 27, 2018, is that right?

18 A. That's correct.

19 Q. Why were you in the United States at that time?

20 A. I was on a business trip.

21 Q. What were you arrested for on that day?

22 A. Attempted extortion.

23 Q. After you were arrested, did you decide to start
24 cooperating with the government?

25 A. Yes.

K39MWEI2

Hargreaves - Direct

1 Q. Roughly, when did you start cooperating with the
2 government?

3 A. Immediately.

4 Q. The government agreed to a bail package for you, which
5 included allowing you to return home to Spain, is that right?

6 A. That is correct.

7 Q. As part of your cooperation you made calls and you had
8 meetings under the direction of the government, is that
9 correct?

10 A. That is correct.

11 Q. Roughly speaking, how many times have you met with the
12 prosecutors in this case?

13 A. Double digits.

14 Q. I'm sorry?

15 A. Double digits.

16 Q. Were you truthful with the government during those
17 meetings?

18 A. Not all the time, but yes, in general.

19 Q. Was every one of those meetings to prepare for trial or
20 were some of those meetings for the government to gather
21 information?

22 A. Both.

23 Q. Did you provide the government with information during
24 those meetings?

25 A. Yes, I did.

K39MWEI2

Hargreaves - Direct

1 Q. Generally, what kind of information did you provide the
2 government during those meetings?

3 A. I provided them -- I answered questions surrounding the
4 contents of my phone pertaining to my business activities.

5 Q. As part of your cooperation were you required to disclose
6 to the government all the crimes that you committed?

7 A. Yes, I was.

8 Q. Did you do that?

9 A. Yes, I did.

10 Q. Did you plead guilty to the charges in this case?

11 A. Yes, I did.

12 Q. What crimes did you plead guilty to?

13 A. Two counts of money laundering, one count of bank fraud,
14 and attempted extortion.

15 Q. Let's start first with the extortion crime. Can you tell
16 us what you did to make you guilty of extortion.

17 A. I arranged for -- I arranged for a British marine to visit
18 the home of a man who had stolen money from a business
19 colleague, a large amount of money, and he used threatening
20 behavior with these people in an attempt to force them to
21 return that money.

22 Q. Turning to the bank fraud and money laundering crimes, what
23 made you guilty of those crimes?

24 A. I worked for a business that was involved in payment
25 processing, as discussed earlier -- yesterday, excuse me -- for

K39MWEI2

Hargreaves - Direct

1 illegal gambling businesses.

2 Q. Mr. Hargreaves, what is the maximum sentence that the judge
3 can give you as a result of your guilty pleas?

4 A. Ninety years.

5 Q. When you pleaded guilty did you enter into a cooperation
6 agreement with the government?

7 A. Yes, I did.

8 MS. LA MORTE: Mr. Levine, can you display for the
9 witness only what's marked for identification as Government
10 Exhibit 2101.

11 Q. Mr. Hargreaves, I want you to look at this. If you need
12 Mr. Levine to scroll down, just let us know when you need that.
13 Just take a look at each page.

14 A. OK.

15 Q. Mr. Hargreaves, do you recognize this document?

16 A. Yes, I do.

17 Q. What is it?

18 A. It's my charges and my cooperation agreement.

19 MS. LA MORTE: The government offers Government
20 Exhibit 2101.

21 MR. ARTAN: No objection.

22 MR. TAYBACK: No objection.

23 THE COURT: Received.

24 (Government Exhibit 2101 received in evidence)

25 Q. Mr. Hargreaves, what are your obligations under this

K39MWEI2

Hargreaves - Direct

1 cooperation agreement?

2 A. To tell the truth and assist, to answer -- to basically to
3 tell the truth.

4 Q. If you meet your obligations under this agreement, what is
5 your understanding of what the government will do?

6 A. I will receive a 510K letter.

7 Q. What that -- generally, what does that mean?

8 A. It advises the judge of my -- of the contents of my
9 cooperation and the contents of my crimes.

10 Q. Do you understand that your cooperation agreement also sets
11 out conduct that you have disclosed to the government but that
12 the U.S. Government cannot prosecute?

13 A. That is correct.

14 Q. What conduct is that? If you need to refresh your memory
15 with the cooperation agreement, you can do that.

16 A. If you could please move it to the page, that would be
17 useful.

18 Q. Mr. Hargreaves, let me direct your attention to page 4. In
19 the paragraph, that big huge first paragraph where it begins,
20 in addition, about midway through. Let me know if you see
21 that.

22 A. I see it.

23 Q. If you can read that to yourself.

24 A. OK.

25 Q. Can you describe for us what this conduct is that you have

K39MWEI2

Hargreaves - Direct

1 disclosed to the government.

2 A. The use of drugs, including cocaine, Ecstasy and marijuana,
3 the utilization of prostitutes, stealing of approximately
4 \$40,000 in funds from my employer in 2019, transferring
5 approximately \$200,000 in funds at the direction of my employer
6 in 2019 without disclosing it to -- the transfer to the federal
7 agent, and processing transactions for businesses engaged in
8 unlawful trading of currencies known as forex trading outside
9 of the United States.

10 Q. I'm sorry about that.

11 Are you done?

12 A. Yes, I am.

13 Q. Mr. Hargreaves, was any of this conduct done while you were
14 cooperating with the government?

15 A. Yes, it was.

16 Q. Which conduct?

17 A. The theft of \$40,000 and the transfer of \$200,000.

18 Q. Earlier you said in meeting with the government there were
19 times when you weren't always truthful. Did that pertain to
20 this conduct?

21 A. Yes, it did.

22 Q. Did there come a time when you disclosed this conduct to
23 the government?

24 A. I disclosed it to them immediately after the transfer was
25 done that I made that transfer at the request of my employers.

K39MWEI2

Hargreaves - Direct

1 Q. Is that something that the government asked you about or is
2 that something that you disclosed to the government?

3 A. I disclosed it to the government.

4 MS. LA MORTE: Now, we can take this down, Mr. Levine.
5 Thank you.

6 Q. Now, Mr. Hargreaves, a few moments ago you explained that
7 if you uphold your obligations under this agreement you will
8 understand that the government is going to write you what's
9 called a 5K letter, is that right?

10 A. That's correct.

11 Q. What is your understanding of who writes that letter?

12 A. The lawyers of the Southern District.

13 Q. What is your understanding of who receives that letter?

14 A. The judge who will be determining my sentence.

15 Q. What is your understanding of what information goes in that
16 letter?

17 A. All of my crimes and the contents of my cooperation.

18 Q. What sentence are you hoping to get in this case?

19 A. I think any person in their right mind would rather not --
20 would rather avoid going to jail.

21 Q. Have you been promised any particular sentence as you sit
22 here today?

23 A. No, I have not.

24 Q. Has the government indicated to you that it would recommend
25 any particular sentence?

K39MWEI2

Hargreaves - Direct

1 A. No, they have not.

2 Q. Has anyone promised you that 5K letter as you sit here
3 today?

4 A. No.

5 Q. What is your understanding of what happens if you don't
6 tell the truth today?

7 A. My situation is going to get worse than it already is.

8 Q. To your understanding, does the outcome of this trial
9 affect whether you get this letter that we have been
10 discussing?

11 A. No, it doesn't.

12 Q. Mr. Hargreaves, I want to switch back now to the Eaze
13 scheme that we have been talking about and focus a little bit
14 more on the fictitious websites that we have been discussing.

15 Let me show you what's been marked for
16 identification -- just to the witness, Mr. Levine -- as
17 Government Exhibit 3602 and Government Exhibit 3604.

18 Mr. Hargreaves, take a look at both of these exhibits.
19 Do you recognize them?

20 A. Mostly, yes.

21 Q. What do you recognize them to be?

22 A. Websites created by my team, or pages from websites created
23 by my team.

24 Q. Do they fairly and accurately depict how the sites looked
25 at the time that your team developed them?

K39MWEI2

Hargreaves - Direct

1 A. Yes, they did.

2 Q. Is there anything different about it?

3 A. The yellow box with the government exhibit written in it
4 and there is a strip across the top with a logo to the left
5 that I don't recognize.

6 Q. Aside from the strip on the top with the logo, are these
7 fair and accurate depictions of how the sites looked at the
8 time that your team created them?

9 A. Yes, they are.

10 MS. LA MORTE: The government offers Government
11 Exhibits 3602 and 3604.

12 MR. TAYBACK: No objection.

13 MR. ARTAN: No objection.

14 THE COURT: Received.

15 (Government Exhibits 3602 and 3604 received in
16 evidence)

17 MS. LA MORTE: Mr. Levine, let's publish both of these
18 for the jury. They are kind of small. Are they both up? They
19 are kind of small. Why don't we just take 3604.

20 Is there any way to make this bigger, or no?

21 Q. Can you see this, Mr. Hargreaves?

22 A. Yes, I can.

23 Q. What is it?

24 A. It's a website that was created by my team, a fraudulent
25 website.

K39MWEI2

Hargreaves - Direct

1 Q. I don't know if you could see it at the very top. What is
2 the domain?

3 A. Osteofiles.com.

4 Q. What service or product is being offered, purportedly
5 offered through this site?

6 A. Writing services.

7 Q. Did your team actually have any of that service available?

8 A. No, it didn't.

9 MS. LA MORTE: Zoom out of that and then let's zoom in
10 on the middle part from "take a look at what we can do for you"
11 and go down, down, down. Good.

12 Q. You see in the middle of the page where it says "our
13 services"?

14 A. Yes.

15 Q. We have translations-international, female voiceover
16 recording, male voiceover recording, and medical professional
17 proofreading.

18 Do you see what is below each of those items of
19 services that I just read?

20 A. Various costings for those services.

21 Q. How are those prices arrived at?

22 A. They were discussed internally between myself -- myself
23 and, I believe, Christian Chmiel, I believe Ray, perhaps Ruben.
24 I don't recall. And possibly Kate Farmer and my team.

25 Q. How did you arrive at these particular prices?

K39MWEI2

Hargreaves - Direct

1 A. One of the -- it was important that whatever prices were on
2 the fictitious websites matched the amounts that were being --
3 that were going to be actually coming into the accounts. These
4 are amounts that would relate to the value of the goods being
5 sold on Eaze's websites. Obviously, if an acquiring bank is
6 looking at our website and saying that this price is quoting
7 \$50, \$25 and we have transactions coming in for \$3,000, \$2,000,
8 a thousand dollars, for example, clearly something is not quite
9 right. So this was the ideology behind the pricing we would
10 agree on as a group when looking -- when applying pricing to
11 our fictitious websites.

12 MS. LA MORTE: Mr. Levine, let's zoom out of that.

13 Can we, starting from that green rectangle three-quarters of
14 the way down, and then just do the whole bottom part.

15 Q. Mr. Hargreaves, you see where it says "get in touch" on the
16 right-hand side?

17 A. Yes, I do.

18 Q. You see that there is an e-mail address listed there?

19 A. Correct.

20 Q. What is that e-mail address?

21 A. Info@osteofiles.com.

22 Q. Who created that e-mail address?

23 A. My team.

24 MS. LA MORTE: We can take this down, Mr. Levine.

25 Thank you.

K39MWEI2

Hargreaves - Direct

1 Q. Mr. Hargreaves, earlier you testified that you would
2 arrange for a company to click on the sites that your team
3 developed.

4 Do you recall that?

5 A. Yes, I do.

6 Q. Can you just briefly remind us how you did that.

7 A. We contracted a service provider that had a roomful of
8 people that would literally visit the website and do it a lot,
9 and it would create the appearance of a website that has a lot
10 of visitors and, therefore, it is justified that that website
11 is turning over a lot of money on a monthly basis.

12 MS. LA MORTE: Let's go to Government Exhibit 4004,
13 page 80.

14 Q. Can you read Ray's comments starting from the top through
15 your comment on this page.

16 A. "Ollie, let's not fill the apps until Christian is happy
17 with the site. Let's discuss all the aspects. We have to get
18 this right. It's our last corp. Let's list out the issue and
19 make sure we tick the box correctly this time. Ollie is
20 working on traffic clicks, Christian. Let's know everything we
21 are doing and let's make it work this time, guys."

22 Q. What is your comment?

23 A. "They will start being pushed latest tomorrow morning."

24 Q. What do you mean when you refer to that? What do you mean?

25 A. I'm referring to the clicks will commence. By clicks, I

K39MWEI2

Hargreaves - Direct

1 mean people visiting the website the following morning.

2 Q. Let's look at just a few other communications regarding the
3 website.

4 MS. LA MORTE: Mr. Levine, can we go on page 89 of
5 this exhibit.

6 Q. Mr. Hargreaves, why don't you read the comments
7 attributable to Ray, and I will read Christian Chmiel's
8 comments.

9 A. "Christian, can you please give us feedback on the site,
10 brother? This is our last chance to get this right for real,
11 as we are out of Kalixa by end of the month?"

12 Q. "Yes, of course, will do."

13 A. "Thank you, sir."

14 Q. "No real additions from my side. The only thing I would
15 adapt is to ensure the meet the founders' information matches
16 the registered directors of the corp."

17 A. "Ollie, have you made an e-mail addy with the UBO's name at
18 this domain? This may not be a bad idea . . Christian?"

19 Q. Next one.

20 A. "So you think this will get through Christian?"

21 Q. "Yes. It really looks good to me." And then a thumbs-up
22 emoticon.

23 MS. LA MORTE: Let's go to page 95 to 96.

24 Q. Let's start with your comment towards the bottom, "we
25 started pushing traffic." Then I will read Ray's comments.

K39MWEI2

Hargreaves - Direct

1 A. "We started pushing traffic to the matcha site last night."

2 Q. "Amazing. What's the domain?"

3 A. "www.greenteacha.com."

4 Q. Just to pause, is that a website that you and your team
5 created?

6 A. Yes, it is.

7 MS. LA MORTE: Let's go to the next page.

8 Q. "Ollie, can you please set up e-mails with the UBO's names,
9 first name or abbreviations, just so it looks real, that the
10 owner and UBO would have his e-mail on there."

11 The reference to UBO in the comments I just read, what
12 do you understand that to be?

13 A. It's a reference to the ultimate beneficial owners of the
14 shelf companies.

15 MS. LA MORTE: Let's go to page 98.

16 Q. Do you see where it says RC on the green dot on the left?

17 A. Yes.

18 Q. Can you read aloud Ray's comments below that up until when
19 you get to point one.

20 A. "Do you agree we also shouldn't or can't use Mr. Tango
21 again. Ollie, I showed the site to everyone and everyone likes
22 it a lot. The look and feel and everything about it went over
23 well. Just a few quick things we need to fix ASAP please."

24 Q. So the reference here, "Ollie I showed the site to
25 everyone," generally, what is the reference to site, do you

K39MWEI2

Hargreaves - Direct

1 understand that to refer to?

2 A. Sorry. Is the question --

3 Q. What is the reference to site, generally?

4 A. The website.

5 MS. LA MORTE: Let's go to page 99.

6 Q. You see Ray's second comment on the page?

7 A. Yes.

8 Q. Can you read that aloud.

9 A. "But, overall, everyone liked it and it should be ready to
10 submit."

11 Q. And then you see where it says June 20, 2018?

12 A. Yes.

13 Q. Can you read Ray's comments below that.

14 A. "Ollie, can we please stick a few more order-now buttons on
15 it. . . . noticed it has very little sales push, which is
16 unlike most real sites."

17 Q. Keep going.

18 A. "On the home page and other pages there are lots of places
19 where in each subsection we could have a order now. Guy looked
20 at the site just now and couldn't figure it out."

21 MS. LA MORTE: We can take that down.

22 Q. Earlier in your testimony, Mr. Hargreaves, we talked about
23 customer service.

24 Do you recall that?

25 A. Yes, I do.

K39MWEI2

Hargreaves - Direct

1 Q. What type of customer service information was typically
2 included on the fictitious websites?

3 A. Typically, e-mails. Potentially, phone numbers as well.

4 Q. Let's start with the customer service phone numbers.

5 MS. LA MORTE: Mr. Levine, can we put up Government
6 Exhibit 4004, page 40.

7 Q. You see Ray's comments there, starting at the top?

8 A. Yes.

9 Q. Can you read those aloud.

10 A. "Ruben. Eaze is saying that nuybers aren't working, the
11 ones we put up, and they want those forwarded to their own CS
12 numbers."

13 Q. Just pause one second. When it says there, "they want
14 those forwarded to their own CS numbers," what do you
15 understand CS to be a reference to?

16 A. Customer support.

17 Q. Keep going.

18 A. "Do you have those and is that in progress, brother?"

19 Q. I'll respond for Ruben's comments. "They send two numbers
20 today, but I guess we'll close down Kalixa. I need to
21 understand what they've in mind."

22 A. "Let's get those numbers forwarded to the numbers they sent
23 today. Even after we leave Kalixa, those are still the Eaze CS
24 numbers that whatever numbers we get have to be forwarded to.
25 We need it changed immediately and we need the apps to be

K39MWEI2

Hargreaves - Direct

1 submitted to WC."

2 Q. Let's go to the next page and keep going.

3 MS. LA MORTE: I'm sorry. Not you, Mr. Levine.

4 Q. Mr. Hargreaves, keep reading the chats.

5 A. "Hot Robots and Lorry should be submitted to WC and Yonis
6 Bank immediately. Kalixa needs to tmove this out. I can't get
7 why this is taking so dam logn."

8 MS. LA MORTE: Go back to the previous page, page 40.

9 Q. These comments that we just read from Ray when he says
10 "Ruben, Eaze is saying the numbers aren't working, the ones we
11 put up, and they want those forwarded to their own CS numbers,"
12 what do you understand Ray to mean there?

13 A. We had phone -- my team had purchased phone numbers that we
14 were going to be utilizing as customer-support numbers. It was
15 Ray's belief that they were not working. And either -- anyway,
16 those phone numbers needed to be forwarded to Eaze's customer
17 support to -- in order to provide customer support to their
18 customers.

19 MS. LA MORTE: Let's now go to page 62.

20 Q. Why don't I read Ray's comments, Mr. Hargreaves, and then
21 you could read Ruben's comments. OK?

22 A. Yes.

23 Q. "From their CS guy. I am dialing 1-877-974-7750 and
24 1-877-975-5510 and still getting errors. Guys, I don't see the
25 two numbers that we have them on your list above for Hot

K39MWEI2

Hargreaves - Direct

1 Robots. What gives?" Series of question marks. "Why is it so
2 hard, guys? Why do I have to ask three F'g days in a row to
3 forward a God damn number? Ollie, I am gonna hook you up with
4 the Eaze CS guy. This is bullshit. I can't blow smoke up
5 their ass for one more day."

6 A. "We got the numbers yesterday, not three days ago."

7 Q. Next page. Keep going.

8 A. "And we are asking for a month. So what's the issue?
9 Somebody here not being able to forward 24 hours -- forward in
10 24 hours after waiting a month."

11 Q. "Yes. That's an F'g issue. Every day counts. Forwarding
12 a number takes minutes."

13 A. "I agree."

14 Q. "Check to go see if it works is important. I'm tired of
15 looking like a retard, and we know this merchant is stupid
16 anyway, so we can't leave it up to them to not provide or have
17 a CS route open and available. These idiots don't know that
18 they're creating CBs, but we do, Ruben."

19 A. "You're not looking like a retard."

20 Q. I'm sorry. Keep going. One more.

21 "Ruben, imagine we get compliant and accounts shut
22 down because these retards don't have a way to pick up and talk
23 to clients who don't recognize our descriptors. It's such a
24 shame."

25 A. "I agree. But it's in progress and everybody here is

K39MWEI2

Hargreaves - Direct

1 working on it."

2 MS. LA MORTE: Let's go back up. Let's stay on this
3 page.

4 Q. You see towards the bottom Ray's last comment on this page
5 where he says, "these idiots don't know that they're creating
6 CBs, but we do, Ruben"?

7 A. Yes.

8 Q. You see that?

9 A. Yes, I do.

10 Q. With respect to CBs, what do you understand CBs to refer
11 to?

12 A. Charge backs.

13 Q. What is the issue with creating charge backs?

14 A. A higher percentage or number of charge backs leads to
15 account closure.

16 Q. You may have recalled that we talked about this before.
17 But in the payment processing system, which participant in the
18 system is responsible for initiating charge backs?

19 A. The issuing bank.

20 Q. Sorry. I thought you were done.

21 A. The bank of the cardholder, basically.

22 MS. LA MORTE: Let's now go to page 64.

23 Q. You see in the middle the third RC icon there?

24 A. Yes.

25 Q. "I connected Ollie with the Eaze CS guys."

K39MWEI2

Hargreaves - Direct

1 A. Yes, I see that.

2 Q. Did Ray in fact connect you with the Eaze CS guys?

3 A. There was a group created on Telegram, yes.

4 MS. LA MORTE: Mr. Levine, let's put up Government
5 Exhibit 4002.

6 Q. Mr. Hargreaves, let's focus on the top first. You see the
7 two gray bubbles?

8 A. Yes.

9 Q. What do they say? Read them both.

10 A. May 10, 2018. Ray CE created the group Eaze CS.

11 Q. What do you understand Eaze CS to refer to?

12 A. Eaze customer support.

13 Q. Looking at this Telegram chat, you see in the middle the
14 second RC icon?

15 A. Yes.

16 Q. That's a chat from Ray, is that right?

17 A. Yes.

18 (Continued on next page)

L39PWEI1

Hargreaves - Direct

1 Q. Can you read that?

2 A. "We need this fixed ASAP. It's extremely risky and stupid
3 to run without a CS number."

4 Q. What do you understand that to mean?

5 A. He's referring to the fact that it is risky to be operating
6 in -- to operate an e-commerce business without a customer
7 support phone number, and the reason for that would be if
8 there's a problem and customers cannot contact the website,
9 then -- or in this case Eaze, if the numbers were to be
10 forwarded, then it would lead to chargebacks, which would lead
11 to accounts being looked at and potentially closed, which is
12 not what we were wishing to happen.

13 Q. Okay. Now, let's go to page 2.

14 So you see Ray's first comment on this page, "Let's
15 see if we can do that"? Do you see that?

16 A. Yes.

17 Q. Could you read that comment and the one below from Ray
18 aloud?

19 A. "Let's see if we can do that. They may have to be toll
20 free and, more importantly, when you Google those numbers or do
21 research, they absolutely cannot come up as Eaze numbers. So
22 regardless of what 877 numbers are set up on the EU side, and
23 since there will be many, many accounts with different
24 descriptors and numbers, we have to forward them all to your
25 numbers."

L39PWEI1

Hargreaves - Direct

1 Q. Okay. So focusing on this first comment, "let's see if we
2 can do that, they may have to be toll free," when it says "they
3 may have to be toll free," what do you understand the "they" to
4 be a reference to?

5 A. Phone numbers.

6 Q. "They may have to be toll free and, more importantly, when
7 you Google those numbers or do research, they absolutely cannot
8 come up as Eaze numbers," what is your understanding of the
9 issues that Ray is identifying there?

10 A. These phone numbers are meant to be associated with our
11 fraudulent websites and, therefore, should not -- it would be
12 very problematic if someone was to enter the phone number into
13 a Google search and instead of our website coming up or a
14 reference to our website, the reference to the company Eaze was
15 to appear.

16 Q. Okay. Now, let's go to page 3, Mr. Levine.

17 And let's start with -- why don't you read -- before
18 we get there, do you see this reference to Mick Frederick?

19 A. Yes.

20 Q. Do you know who that is?

21 A. I believe -- these are -- they work for the customer
22 service in Eaze.

23 Q. All right. So why don't you read Ray's comments, and I'll
24 read Mick Frederick's comments?

25 A. "And it's critical that they don't answer saying it's Eaze.

L39PWEI1

Hargreaves - Direct

1 They have to be generic and say they are a CS center for many
2 companies and ask for the person's info to pull them up, and
3 then once you see they are e-legit Eaze customer, they can be
4 transferred or dealt with as Eaze, but not before that."

5 Q. "I called them twice using the 510 numbers. Team is
6 answering appropriately. They get a big banner popping up
7 announcing who it is."

8 A. "Then the bank, Visa and MC, do tests and mystery shopping;
9 so we have to be careful of them."

10 Q. Okay. We can stop there. So going starting at the top,
11 "and it's critical that they don't answer saying it's Eaze,"
12 what is your understanding of why that is?

13 A. Because if the bank's compliance department was, for
14 example, to phone one of these phone numbers doing a random
15 check, as they -- it's part of their job to do so to keep an
16 eye on -- to make sure that the merchants they were -- the
17 websites they were providing banking services to were behaving
18 in a fit and proper manner in line with their contract, they
19 would make random phone calls and if you were phoning
20 golfballs.com and someone picked up the phone saying "Eaze,"
21 that would lead to account closure for us.

22 Q. Okay. Now, you see the other highlighted part, Ray's
23 comment, "the bank, Visa and MC do tests and mystery shopping;
24 so we have to be careful of them;" do you see that comment?

25 A. Yes.

L39PWEI1

Hargreaves - Direct

1 Q. What is your understanding of what "MC" refers to?

2 A. MasterCard.

3 Q. And "mystery shopping," what is your understanding what
4 "mystery shopping" means?

5 A. These are -- Visa and MasterCard had a department or have a
6 department where their sole job is to enter transactions into
7 websites that they deem to be -- they think to be partaking in
8 suspicious activity and follow that transaction through the
9 banking system to see where it ends up; so they can then
10 contact the acquiring bank where the transaction ends up and
11 notify them of suspicious activity on one of their merchant
12 accounts.

13 Q. Okay. We can take this down, Mr. Levine.

14 Now, you also mentioned that the fictitious website
15 would contain e-mail addresses, correct?

16 A. Yes.

17 Q. And one of those that we looked at was
18 info@osteofiles.com --

19 A. Correct.

20 Q. -- as an example? Did your team ever receive inquiries or
21 anything like that at those customer service addresses?

22 A. Yes, a couple.

23 Q. And who was responsible for handling customer complaints or
24 inquiries, or what have you, that would come into the e-mail?

25 A. Michele Furlan and his team.

L39PWEI1

Hargreaves - Direct

1 Q. Okay. Mr. Levine, let's put up Government Exhibit 3949,
2 and let's actually highlight -- not that part, let's just
3 highlight that bottom e-mail.

4 Okay. So you see here the "from" line,
5 Mr. Hargreaves?

6 A. Yes.

7 Q. It says Goode and Green Bazaar, and the e-mail address is
8 info@goodegreenbazaar.com; do you see that?

9 A. Yes.

10 Q. What is Goodegreenbazaar.com?

11 A. It is a fraudulent website that I -- that my team created.

12 Q. And who did you understand to man this e-mail address?

13 A. My team.

14 Q. And now, you see the subject. What is the subject of the
15 e-mail?

16 A. Forward: FW: account fraud.

17 Q. And who do you understand this e-mail to be going to?

18 A. This e-mail is being sent to the fraudulent website, it is
19 being sent to the e-mail provided on the fraudulent website
20 Goodegreenbazaar.

21 Q. And to who do you understand Goodegreenbazaar to be sending
22 the e-mail?

23 A. EUprocessing@ProtonMail and Marty25@ProtonMail.

24 Q. Can you read aloud the body of the e-mail?

25 A. Hi, this morning I looked at my bank account and I have a

L39PWEI1

Hargreaves - Direct

1 charge from your company. I did not make a purchase and have
2 never, ever heard of your company. I want a refund, and I will
3 also be contacting my bank. Please respond with the info you
4 need. Thanks, Kristal. Sent from my iPhone.

5 Q. Okay. You can zoom out. Put up -- I'm sorry, can you zoom
6 back in on that, Mr. Levine?

7 Okay. Do you see where this individual says "I want a
8 refund and I will also be contacting my bank"?

9 A. Yes.

10 Q. Does that raise any concerns for you and your team?

11 A. Yes.

12 Q. Why?

13 A. Because if she contacts her bank, the issuing bank, and the
14 issuing bank decides, instead of pursuing a refund, which
15 although is not ideal, if they decided to pursue a chargeback,
16 that's -- as I mentioned before, a certain number of
17 chargebacks can lead to account scrutiny and account closure,
18 and neither of these two things are things that we wish to
19 happen.

20 Q. Okay. Mr. Levine, let's put up Government Exhibit 3950,
21 and you can blow up the whole thing.

22 And you see that e-mail on the bottom?

23 A. Yes.

24 Q. Can you read that aloud?

25 A. "Hi, I am in the U.S. and have never used or heard of

L39PWEI1

Hargreaves - Direct

1 Goodegreenbazaar.com, but I see this charge on my credit card
2 for some reason. Please remove it. How did this happen? Can
3 you tell me the purchaser's name and other order details? I
4 want to make sure it's not anyone I know who stole my credit
5 card. The card ends 3357."

6 Q. And you can stop there. Now, who was this e-mail forwarded
7 to?

8 A. EUprocessing.

9 Q. And who do you understand that to be?

10 A. Ruben.

11 Q. And can you read aloud the response, that e-mail?

12 A. "FYI, it is already taken care of, both the complaints.
13 Best, EUP."

14 Q. Okay. We can zoom back out of that and close that. Thank
15 you, Mr. Levine.

16 Okay. Mr. Hargreaves, did you and your team charge
17 for the services that you provided in the scheme?

18 A. Yes, we did.

19 Q. And who did you speak to to discuss receiving payment for
20 your services?

21 A. Ruben and Ray.

22 Q. Did you arrange for invoices to be prepared?

23 A. Yes, I did.

24 Q. And who prepared them?

25 A. My team.

L39PWEI1

Hargreaves - Direct

1 Q. Who would you send those invoices to?

2 A. Initially we sent them to both Ray and Ruben, and then
3 predominantly Ruben.

4 Q. Let's put up on the screen Government Exhibit 3962, and
5 let's just zoom in on the August 17th, 2018, e-mail at 10:32.

6 Who is this e-mail being directed to, to your
7 understanding?

8 A. Jawbreaker13 and EUprocessing.

9 Q. And who do you understand to use those accounts?

10 A. Ray and Ruben.

11 Q. Can you read the e-mail aloud?

12 A. "Dear all, we do require payment for work completed. Copy
13 payment advice attached for convenience. Please, can you
14 arrange payment as soon as possible? Appreciate your priority
15 attention on this. Kind regards, KF."

16 Q. Okay. Let's just zoom out and scroll down to the next
17 page. Keep going. Stop.

18 This is page 3 of the exhibit. Just, Mr. Hargreaves,
19 briefly, what is this?

20 A. It's a payment advice generated by one of my -- Kate
21 Farmer.

22 Q. And let's just scroll down one more page. And can you
23 describe for us what this is?

24 A. It's a breakdown of what the payment advice is for.

25 Q. And just generally, we don't have to go line by line or

L39PWEI1

Hargreaves - Direct

1 column or anything like that, but generally, what's being
2 reflected here?

3 A. The work that we did for them.

4 Q. Okay.

5 A. Creation of websites and -- yeah, the work we did for them.

6 Q. Okay. Let's zoom out of that.

7 THE COURT: Counsel, find an appropriate spot to give
8 the jury their mid-morning break.

9 MS. LA MORTE: Yes, your Honor. We can stop here. I
10 am almost finished. I probably have ten minutes or so left.

11 THE COURT: Well, if it's ten minutes, we'll go ten
12 minutes.

13 BY MS. LA MORTE:

14 Q. Okay. Let's zoom out of that, Mr. Levine. And now, let's
15 put up Government Exhibit 3963.

16 Before we actually read this e-mail, Mr. Hargreaves,
17 did you have any problems collecting on the payments?

18 A. Some of them, yes.

19 Q. And who would you try to go to to resolve those issues?

20 A. Both Ray and Ruben.

21 Q. Okay. Now, let me direct your attention to Government
22 Exhibit 3963.

23 Can you highlight the e-mail on the very bottom,
24 Friday November 9th, 2018.

25 Who is this e-mail from?

L39PWEI1

Hargreaves - Direct

1 A. Myself.

2 Q. And can you read it -- and who is it to?

3 A. Kate Farmer.

4 Q. Can you read the e-mail aloud?

5 A. "Hi Kate. Ray is refusing to pay the last invoice and is
6 using my e-mail requesting that our invoice be resolved as an
7 excuse to throw his toys out the pram...see below messages."

8 Q. Go ahead.

9 A. "There is a major disconnect between what he thinks was
10 done and what was actually done."

11 Q. Before you go on, do you see the next part is in quotes?

12 A. Yes.

13 Q. What are you reflecting by using the quotes?

14 A. I'm quoting what Ray told me.

15 Q. Can you read the quote aloud?

16 A. "Just heard from Ruben that you're not signing unless we
17 pay more. We paid you 120K for four F'ing corps for which we
18 had to redo all the sites, which we already paid you for. If
19 you don't sign this, you and me will have a problem."

20 Q. Okay. And then continue on with the rest of your e-mail?

21 A. "I want to push back on this, as I believe that we can
22 demonstrate that we did everything they asked us to do and
23 more. But in order for me to fight him on this, we need to
24 provide tangible evidence."

25 Q. Okay. We can zoom out.

L39PWEI1

Hargreaves - Direct

1 Mr. Hargreaves, when did you -- roughly, when did you
2 stop creating application packs and websites for the Eaze
3 scheme?

4 A. I mean, the easiest way to put it is before I was arrested.

5 Q. Before you were arrested?

6 A. Yes.

7 Q. And after you were arrested, were there any activities that
8 you continued to handle in connection with the Eaze scheme?

9 A. Yes, we continued to chase -- we continued to chase payment
10 for the unpaid invoices, and there was hosting and domain --
11 domains that were purchased and hosting that were purchased,
12 which carried on through, which was maintained.

13 Q. Okay. Mr. Levine, let's put up Government Exhibit 3970,
14 and let's just highlight this e-mail on the bottom.

15 Mr. Hargreaves, what's the date of this e-mail?

16 A. April 17, 2019.

17 Q. Was this before or after you were arrested?

18 A. It was after I was arrested.

19 Q. Who was the e-mail from?

20 A. EUprocessing.

21 Q. Let me direct your attention --

22 A. Sorry, apologies. Kate Farmer.

23 Q. And who did you understand her to be directing it to?

24 A. EUprocessing.

25 Q. And who did you understand that to be?

L39PWEI1

Hargreaves - Direct

1 A. Ruben.

2 Q. So let's just read this e-mail aloud, up until the end of
3 the bolded part in the middle.

4 A. "Hi EUP. I have captured the fees for supporting domains,
5 hosting telephone numbers and marketing service-traffic to
6 sites in the attached invoice.

7 "The invoice supports payments for these services
8 through to the 30th of June 2019. The second page provides a
9 full breakdown of these fees."

10 Q. And read the bolded part as well?

11 A. "Please note we are ceasing operations for support of
12 websites and their maintenance. We will cease paying for these
13 services after the 30th of June 2019."

14 Q. Now, Mr. Hargreaves, do you recall that in the beginning of
15 your testimony today we listened to a phone call between you
16 and Ruben?

17 A. Yes, I do.

18 Q. How, if at all, does that phone call relate to -- or what's
19 being discussed on that phone call relate to this e-mail?

20 A. I was -- it relates to it in the fact that I was advising
21 him that we already informed -- we were discussing that we were
22 basically ceasing to provide these services as listed in this
23 e-mail by that -- by the date that was quoted in the
24 conversation. It's pretty much a mirror of the conversation I
25 had.

L39PWEI1

Hargreaves - Direct

1 Q. Mr. Hargreaves, was this then the end of your participation
2 in the scheme?

3 A. Yes, it was.

4 Q. And who took over management of your services?

5 A. The company that we were employing.

6 Q. Which is what?

7 A. Spinwild.

8 Q. And who was in charge of that company, Spinwild?

9 A. Michele Furlan.

10 Q. And lastly, Mr. Levine, let's just put up Government
11 Exhibit 4004. This is the Olliebaba chat. Let's please go to
12 page 69. Can you -- do you see where Ray's comments begin
13 towards the bottom, under Christian Chmiel?

14 A. Yes.

15 Q. Can you read those aloud?

16 A. "Thank you, guys. There's no smarter or better group than
17 us when we work together properly. We just need to learn how
18 to always operate that way. We have the talent, the
19 resources."

20 Q. And now, let's go to page 80. And you see Ray's comments
21 under your comments? Your first comment on the page in green;
22 do you see that?

23 A. Yes.

24 Q. Do you see Ray's two comments under there?

25 A. Yes.

L39PWEI1

Hargreaves - Direct

1 Q. Can you read them aloud?

2 A. "There is no way all these people can pull this off and we
3 can't. With our brain trust, we should be way ahead of
4 everyone else."

5 Q. When Ray says "there's no way all these people can pull
6 this off," what do you understand him to mean by "pull this
7 off"?

8 A. The transaction laundering scheme.

9 MS. LA MORTE: No further questions, your Honor.

10 THE COURT: All right. Thank you very much.

11 Ladies and gentlemen, we'll give you your mid-morning
12 break, about 20 minutes, and we'll resume in 20 minutes.

13 (Jury not present)

14 Okay. We'll see you in 20 minutes. You may step
15 down.

16 (Witness temporarily excused)

17 (Recess)

18 (Jury not present)

19 THE COURT: Let's get the witness back on the stand.

20 Counsel, cross will go until 12:45 on the dot, and
21 then we'll have to break for lunch because of another matter
22 that I have to handle at that time and, of course, we'll resume
23 after lunch.

24 THE LAW CLERK: Jury entering the courtroom.

25 (Jury present)

L39PWEI1

Hargreaves - Cross

1 THE COURT: Please be seated. All right. Counsel.

2 MR. ARTAN: Thank you, your Honor.

3 CROSS-EXAMINATION

4 BY MR. ARTAN:

5 Q. Good morning, Mr. Hargreaves. Can you hear me?

6 A. I can, yes.

7 Q. My name is Michael Artan. I represent Ruben Weigand.

8 MR. ARTAN: Your Honor, could I have one moment? My
9 hearing aid battery just told me it had to be replaced.

10 THE COURT: Yes.

11 (Pause)

12 MR. ARTAN: This is a first. Forgive me. Thank you,
13 your Honor.

14 THE COURT: Go ahead.

15 BY MR. ARTAN:

16 Q. Mr. Hargreaves, I'd like to remind you of the day you were
17 arrested on September 27th, 2018. You have that day in mind,
18 don't you?

19 A. Yes, I do.

20 Q. The FBI agents and IRS agents who arrested you, arrested
21 you here in Manhattan, correct?

22 A. That is correct.

23 Q. And you were getting out of a cab, correct?

24 A. I was stopped while I was in a taxi.

25 Q. I'm sorry? I'm having trouble hearing you.

L39PWEI1

Hargreaves - Cross

1 A. Sorry. Apologies. I was in a taxi.

2 Q. And from that moment on, the government has had a certain
3 measure of control over you; isn't that correct, sir?

4 A. I've been -- I mean, I've been out -- since being arrested,
5 I've been subsequently on bail; so yes.

6 Q. It was frightening, being arrested, wasn't it?

7 A. Yes, it was, sir.

8 Q. It's a shocking experience, correct?

9 A. That's correct.

10 Q. And you were rather promptly taken to a room at the U.S.
11 Attorney's Office about a block away from this building; is
12 that correct?

13 A. That is correct.

14 Q. And in an enclosed room, the agents told you that you were
15 under suspicion for extortion; did they not?

16 A. Yes, that's correct.

17 Q. They told you you were being arrested on probable cause,
18 correct?

19 A. Yes, that's correct.

20 Q. And it's serious business to be arrested by the FBI,
21 correct, sir?

22 A. Yes.

23 Q. You knew at that moment that you might conceivably spend
24 years away from your family, correct?

25 A. Yes, that is correct.

L39PWEI1

Hargreaves - Cross

1 Q. And at the time, and now, you're married and have a child,
2 right?

3 A. That is correct.

4 Q. And you thought a great deal about the fact that having
5 been arrested, you would be away from them, correct?

6 A. That is correct.

7 Q. Now, that evening, once they told you that you were
8 charged -- actually, let me go back. The agents took your
9 baggage, correct?

10 A. Yes.

11 Q. They took money out of your wallet and paid the cab,
12 correct?

13 A. Yes, they did.

14 Q. They took you to that room, told you what you were charged
15 with, and then that night they didn't take you to lockup, did
16 they?

17 A. I was taken to a jail.

18 Q. Did they drive you around for a while?

19 A. They drove me to a jail.

20 Q. Did you tell the agents you were appreciative of the two of
21 them driving you around for a while?

22 A. I don't recall.

23 Q. May we have item 3501-0051 put up on the screen for the
24 witness.

25 If we could look at page 2, sir, at the bottom. Do

L39PWEI1

Hargreaves - Cross

1 you see that language, sir?

2 MS. LA MORTE: Objection, your Honor. Foundation.

3 MR. ARTAN: It's to refresh his memory, your Honor.

4 MS. LA MORTE: Is there be a question asking if there
5 would be something to refresh his memory?

6 THE COURT: I don't see it as inconsistent.
7 Sustained.

8 BY MR. ARTAN:

9 Q. Does that refresh your memory, sir, that you stated that
10 you were appreciative of the two agents driving you around last
11 night and having been nice to him?

12 A. Yes, it does.

13 Q. So what did you mean by that?

14 A. If my memory of the evening serves me correctly, I was very
15 emotional. I was very scared, and I was being treated civilly.

16 Q. Now, a little earlier this morning you said that you
17 cooperated immediately, correct?

18 A. That is correct.

19 Q. And in fact, by September 29th, which is just a day and a
20 half after your arrest, you sat down with prosecutors and FBI
21 agents, with your lawyer, and had a long meeting with the
22 government, correct?

23 A. Correct.

24 Q. In fact, it was about a block away, in the U.S. Attorney's
25 Office, right?

L39PWEI1

Hargreaves - Cross

1 A. Yes, that's correct.

2 Q. And Mr. Folly was present, correct?

3 A. I actually don't recall who was specifically there. There
4 was a number of lawyers there, and at the time, I wasn't
5 particularly familiar with who these people were.

6 Q. And it was explained to you that what you said would not be
7 used against you; what you said during the meeting would not be
8 used against you, correct?

9 A. I don't recall that.

10 Q. And you were told that you mustn't lie during the meeting,
11 right?

12 A. That has been a constant theme.

13 Q. And you decided, after being given some admonitions, that
14 you would cooperate with the government, correct?

15 A. I made a decision at a certain point to cooperate with the
16 government, yes.

17 Q. Now, the government was very much interested in your
18 activities regarding the extortion you mentioned earlier this
19 morning, correct?

20 A. Yes, they were.

21 Q. And they were also very much interested in activity
22 concerning payment processing for illegal gambling, correct,
23 sir?

24 A. That is also correct.

25 Q. And you described to the government the fact that you

L39PWEI1

Hargreaves - Cross

1 worked for someone called Gary Murphy, correct?

2 A. That is correct.

3 (Continued on next page)

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L39MWEI4

Hargreaves - Cross

1 Q. You spoke briefly about Gary Murphy yesterday, did you not?

2 A. Yes, I did.

3 Q. And Mr. Murphy was sort of a notorious character, right?

4 MS. LA MORTE: Objection.

5 THE COURT: Sustained: I sustained the objection.

6 Put another question.

7 Q. When you worked with Gary Murphy, you were aware that he
8 was involved in drug dealing in the past, correct, sir?

9 A. I knew that he had served time in prison for offenses.

10 Q. Now, at the time you first met Gary Murphy, what were you
11 doing?

12 A. I was living in Barcelona. I was introduced to him.

13 Q. When was that?

14 A. I don't recall.

15 Q. I beg your pardon?

16 A. I said I don't recall.

17 Q. Was it before 2016?

18 A. Possibly, yeah.

19 Q. When you say possibly, does that suggest it was around that
20 time?

21 A. Possibly, yes.

22 Q. Now when did you start working for him?

23 A. I'm sorry. I really don't recall.

24 Q. In what context did you first start working for him?

25 A. I worked bringing in clients for -- sorry. I was sourcing,

L39MWEI4

Hargreaves - Cross

1 acquiring banks for a client of his.

2 Q. At some point you worked for a company called Pago, right?

3 A. That's correct, yes.

4 Q. That was his company, right?

5 A. Yes, it was.

6 Q. When did that start?

7 A. That started around about 2016.

8 Q. What was your role with Pago?

9 A. I was the CEO.

10 Q. Was that the first job you had with Mr. Murphy?

11 A. No. Prior to that, I was --

12 Q. You were what?

13 A. Prior to that, I was looking for acquiring banks for a
14 client of his. I didn't really have an official title.

15 Q. What kind of work had you been doing with respect to
16 acquiring banks at the time you met Gary Murphy?

17 A. I'm sorry. I didn't understand the question.

18 Q. You were saying that you initially started with Gary Murphy
19 to set him up with acquiring banks, is that correct?

20 A. No. I was introducing a client that he had to acquiring
21 banks. He knew -- it was really a he knew somebody and I -- he
22 had a relationship with somebody who was in the payment
23 processing world and was looking for acquiring banks and, I was
24 trying to broker -- I was trying to broker that relationship, I
25 guess you could say.

L39MWEI4

Hargreaves - Cross

1 Q. So you had relationships with acquiring banks at that time
2 already, correct?

3 A. No, I didn't. I was learning about a new subject, and I
4 was trying to find them.

5 Q. Can you say approximately when in 2016 this was happening?

6 A. Sorry. Which part?

7 Q. Good question. I'll start with the time you met with Mr.
8 Murphy and had an informal arrangement to try and find
9 acquiring banks for one of his clients.

10 A. I am going to say in advance of 2016.

11 Q. Was it early, late?

12 A. I don't recall. Sorry.

13 Q. Now, you testified yesterday that you started on the Eaze
14 processing structure in 2016. That's not correct, is it, sir?

15 A. Let me think. One second.

16 Q. I'm sorry, sir.

17 A. I know you are waiting. I'm not very good with dates. I
18 am just trying to remember.

19 Q. We will come back to that.

20 Let's go back to this meeting that you had with the
21 U.S. Attorney's Office and various federal agents on September
22 29. OK?

23 A. Sure.

24 Q. During that meeting you told the government some of the
25 details about you and Gary Murphy, correct?

L39MWEI4

Hargreaves - Cross

1 A. Yes, I did.

2 Q. And you told them that Gary Murphy had a contact with
3 someone named Gilbert, correct? Gilbert Armenta?

4 A. I don't think I told them that. I think they were aware of
5 that.

6 Q. They already knew about that, right?

7 A. Yes, sir.

8 Q. Mr. Armenta wanted to collect \$30 million that he was owed,
9 correct?

10 A. That is correct, yes.

11 Q. And he was counting on Gary Murphy and you to help him
12 collect that money, correct?

13 A. That is correct, sir.

14 Q. That money, the 30 million, was somehow the proceeds of a
15 Ponzi scheme called OneCoin, correct?

16 A. I did not understand that at the time, but, yes, I
17 believe -- I am led to believe so.

18 Q. That was your understanding, right?

19 A. No.

20 Q. I'm sorry?

21 A. I said no. I did not -- I had a different understanding of
22 what I thought the proceeds were from.

23 Q. Now, you understand, of course, that threatening someone is
24 not a legal way to collect money, correct?

25 A. I do, yes.

L39MWEI4

Hargreaves - Cross

1 Q. And you understand that hiring a former special forces
2 officer to threaten someone to get money is illegal, correct?

3 A. Yes, I do.

4 Q. You knew that when you helped arrange that, correct?

5 A. Yes, I did.

6 Q. And you were in constant touch with a special forces
7 retired officer, correct?

8 A. Yes, I was.

9 Q. And his name was Dominick Welsh, correct?

10 A. That is correct.

11 Q. Mr. Welsh was sending surveillance photos to the person who
12 was the target of the extortion, correct?

13 A. That is correct.

14 Q. At some point Mr. Welsh and a colleague of his went to this
15 target and tried to collect the money from him directly,
16 correct?

17 A. That is correct.

18 Q. All that happened in 2016 and '17, correct?

19 A. Yes, that is correct.

20 Q. And, nonetheless, you continued to work with Gary Murphy,
21 correct?

22 A. I did continue to work with Gary Murphy, yes.

23 Q. And you understood, too, that the target of the person who
24 was being extorted -- let me rephrase that, please.

25 You understood the target, the person who was being

L39MWEI4

Hargreaves - Cross

1 extorted, was not the person who actually had the money. You
2 knew that the money was from a different pot, so to speak,
3 correct?

4 A. Sorry. Could you repeat the question.

5 Q. You had understood that the money to be collected was from
6 a different pot of money than the money that was received.

7 A. I'm sorry. I am not sure I really understand what you are
8 asking me.

9 Q. I'll come back to that.

10 With respect to Mr. Murphy, you were also involved in
11 a company called PaySec, correct?

12 A. Not really, no. They were both his companies. I really
13 didn't have a great deal of involvement with PaySec.

14 Q. You had a PaySec e-mail address, right?

15 A. I did, yes.

16 Q. Does that mean it is your company?

17 A. No, it does not. It wasn't my company, no.

18 Q. But you had the e-mail address, right?

19 A. Yes, I did.

20 Q. Now, you went forward with this extortion business because
21 you had the potential to make a lot of money, correct?

22 A. That is correct.

23 Q. It wasn't just Gilbert Armenta, but a man called Mauro,
24 correct?

25 A. Correct.

L39MWEI4

Hargreaves - Cross

1 Q. Eventually, Armenta and Mauro called off the whole deal,
2 correct?

3 MS. LA MORTE: Objection. Vague.

4 THE COURT: It is a little vague. But if the witness
5 can answer it, I will allow him to answer it.

6 MR. ARTAN: I could restate it, your Honor.

7 Q. Do you understand the question?

8 A. You are asking me if there is two gentlemen involved.

9 Q. Let me start over.

10 The extortion attempt was eventually called off,
11 right?

12 A. I am not sure if I would phrase it like that. But there
13 was certain -- I am trying to think how to answer this without
14 giving you a long-winded answer.

15 Q. You didn't do anything to stop it, did you, sir?

16 A. No, I did not.

17 Q. Mr. Armenta was participating in Chinese gaming traffic,
18 correct, sir?

19 A. Yes, that's correct.

20 Q. And this is one of the subjects you discussed with the U.S.
21 Attorney's Office that first day you were debriefed, on
22 September 29, 2018, correct?

23 A. That is correct.

24 Q. And you knew that Armenta's money was illegal, correct,
25 sir?

L39MWEI4

Hargreaves - Cross

1 A. I did, yes.

2 Q. And you knew about OneCoin, correct?

3 A. That's the name of it, yes.

4 Q. And you knew that there was some potential relationship
5 between the OneCoin situation and Gary Murphy and Armenta,
6 correct?

7 A. I discovered this later, yes.

8 Q. And to put it in context, your understanding of OneCoin was
9 that it was a massive Ponzi scheme that resulted in billions of
10 dollars lost, correct?

11 MS. LA MORTE: Objection.

12 THE COURT: Ground.

13 MS. LA MORTE: Foundation, your Honor.

14 THE COURT: He is asking if that was his
15 understanding. If he didn't have such an understanding, he
16 will say so.

17 Overruled.

18 A. Yes, I did have an understanding that it was a big crypto
19 Ponzi scheme.

20 Q. And returning to the extortion, what was your fee? What
21 was going to be your fee for the money collected?

22 A. There was a percentage discussed which was, I believe, 30
23 percent.

24 Q. So you were hoping to get 30 percent of a \$30 million
25 payout, correct?

L39MWEI4

Hargreaves - Cross

1 A. That is correct.

2 Q. You were willing to engage in extortion for that money,
3 correct?

4 A. That is correct.

5 Q. You, in fact, had even spoke to Dominick Welsh about what
6 means he would use for the extortion, correct?

7 A. Yes.

8 Q. Now, that meeting lasted several hours, correct?

9 A. Which meeting? Sorry.

10 Q. That first meeting we have been talking about on September
11 29, 2018.

12 A. I don't recall how many hours it lasted for.

13 Q. I'm sorry?

14 A. I don't actually recall how many hours it lasted for.

15 Q. Now, the very next day you had another meeting with the
16 same people for the government, correct?

17 A. Yes.

18 Q. During that meeting you discussed payment processing for
19 illegal gambling, correct?

20 A. Correct.

21 Q. And you were interfacing with Gilbert Armenta so you could
22 get involved in that payment processing for illegal gambling,
23 correct, sir?

24 A. Yes, I was.

25 Q. And you were ambitious and wanted to do well in that field

L39MWEI4

Hargreaves - Cross

1 of illegal gambling, correct?

2 A. I was ambitious and wanted to do well for my company.

3 Q. And Gilbert Armenta had a bank in Georgia, correct?

4 A. I believe so, yes.

5 Q. And that also fit in with your interest in acquiring banks,
6 correct?

7 A. No, it didn't. I learned that information separately
8 myself. It was not part of my discussions with or business
9 dealings with Gilbert Armenta.

10 Q. Other than the extortion, what business were you attempting
11 to get involved in with Gilbert Armenta when you first met him?

12 A. Payment processing.

13 Q. When did you start working in the world of payment
14 processing?

15 A. I was first introduced to payment processing when I was
16 informed about it by Mr. Murphy and the opportunity to make
17 commissions if I could find acquiring banks that were able
18 to -- were willing to provide processing for illegal gaming
19 merchants.

20 Q. Fair enough. When was that?

21 A. I would imagine, before 2016.

22 Q. Are we talking five years, ten years, six months? Do you
23 have some estimate you could give us?

24 A. Yeah. I would say 2015, I guess.

25 Q. What were you doing before that?

L39MWEI4

Hargreaves - Cross

1 A. I was a salesman. I was selling investment products.

2 Q. Now, at some point you began processing payments for
3 Armenta for gambling, correct?

4 A. Sorry. Can you just say the question the way you just said
5 it again, please.

6 Q. At some point you began processing payments for Armenta for
7 illegal gambling, correct?

8 A. No. That was the other way around, actually.

9 Q. The other way around in what respect, sir?

10 A. He was processing payments for us or for clients that I
11 procured.

12 Q. So you had illegal gambling clients who needed payment
13 processing?

14 A. I did, yes.

15 Q. And these clients were from the United States, right?

16 A. Some of them had customers from the United States, but none
17 of them were from the United States.

18 Q. A big part of PaySec's activities were illegal gambling,
19 correct?

20 A. Correct.

21 Q. In the context of your being involved in these activities,
22 you came to understand that acquiring banks would be processing
23 payments for various merchants, correct?

24 A. Yes. That was the idea.

25 Q. And, generally, the acquiring banks were actually

L39MWEI4

Hargreaves - Cross

1 functioning banks, correct?

2 A. Yes.

3 Q. In the context of the work that acquiring banks were doing,
4 they would process payments and collect fees just like any
5 other normal business, correct?

6 A. Yes, they would.

7 Q. They would process the payments and collect their fees,
8 whether it was illegal or not, correct?

9 MS. LA MORTE: Objection.

10 THE COURT: Sustained.

11 Q. In your experience, in that world of payment processing,
12 the acquiring banks would be gaining their fees on processing
13 payments, whether the work was illegal or not, correct?

14 A. I really don't know how to answer that question because if
15 you would like me to elaborate, I can.

16 Q. I'm having trouble hearing you, sir.

17 A. Apologies. I was saying, I don't really know how to answer
18 that question and I can elaborate as to why not, if you would
19 like me to.

20 Q. Maybe I'll try it a different way.

21 A. OK.

22 Q. In the work you were doing you were aware of what acquiring
23 banks were doing in respect to payment processing, correct?

24 A. Yes. They were processing payments for a multitude of
25 different businesses, sir.

L39MWEI4

Hargreaves - Cross

1 Q. A lot of what you were doing was illegal business?

2 A. Yes, sir, that's correct.

3 Q. In that context the acquiring banks were collecting their
4 fees just as though the business was legal, correct?

5 A. Well, I would say that 99 percent of the bank was of the
6 opinion that it was legal.

7 Q. It is your belief, sir, isn't it, that the acquiring banks
8 wanted some level of plausible deniability about the work that
9 they were doing to process illegal payments, correct?

10 MS. LA MORTE: Objection.

11 THE COURT: Sustained. When I sustain an objection,
12 you don't answer.

13 THE WITNESS: Thank you.

14 MR. ARTAN: Your Honor. Was it the form? I might be
15 able to restate it.

16 THE COURT: That was an additional problem. But the
17 main problem is this that you haven't laid a foundation, and I
18 doubt that you can, that he had personal knowledge that would
19 warrant his being able to say whether or not the banks wanted
20 some level of plausible deniability. There is also the
21 ambiguity in what's meant by plausible deniability. I
22 understand you were getting at his understanding of that. I am
23 not sure you've yet established that the relevance of his
24 understanding of that, even if he could, even if he had that
25 understanding. Those are the starting problems. There are

L39MWEI4

Hargreaves - Cross

1 some others. If you want to take a different stab, absolutely.

2 MR. ARTAN: Can I give it one more shot and then move
3 on if it doesn't work?

4 THE COURT: Yes.

5 MR. ARTAN: Thank you, your Honor.

6 Q. During that second meeting with the government, did you
7 tell the government that the banks were willing to do the
8 processing and all they wanted was plausible deniability that
9 they could pass off to the merchants?

10 A. If I was able to find someone in the bank that was willing
11 to work with me based on a fraudulent application pack, then
12 that individual, yes, they would want the fraudulent
13 application packs to pass muster.

14 Q. You told the government --

15 THE COURT: Now I'm not clear on what the witness is
16 saying. The question was, did you say to the government that
17 the bank -- all they wanted was plausible deniability that they
18 could pass off to the merchants. Did you say that to the
19 government or not?

20 THE WITNESS: I don't actually recall.

21 THE COURT: You don't remember one way or another.

22 That is the answer to the question, but of course you
23 can give him something to refresh his recollection.

24 MR. ARTAN: Your Honor, if we could put item number
25 3501-0011 in front of the witness.

L39MWEI4

Hargreaves - Cross

1 THE COURT: You want to blow up the relevant portion.

2 MR. ARTAN: The third page.

3 THE COURT: You want to blow up the relevant portion.

4 MR. ARTAN: Yes. On the third page. It is --

5 unfortunately, it is not lined and numbered. But if I could
6 approach.

7 Q. Do you see that?

8 A. I am just reading it.

9 Q. Does that refresh your recollection about acquiring banks?

10 A. I am still reading it.

11 Q. You said it's better to deal with banks that know what you
12 are doing, right?

13 A. Yeah. I think I should probably qualify this statement. I
14 am not talking about the entire bank.

15 Q. Right. You are talking about people at the bank, correct?

16 A. Yes, that's correct.

17 Q. People at the bank are normally people in management
18 positions, correct?

19 A. Preferably, yes.

20 Q. You are not going to interface with a teller or someone who
21 has got a less senior position in the bank, correct?

22 A. No, probably not. Probably wouldn't be worthwhile.

23 Q. You explained to the government some of your activities
24 with respect to processing payments for illegal gambling,
25 correct?

L39MWEI4

Hargreaves - Cross

1 A. Yes, I did.

2 Q. And you described how you were doing some work in the
3 Philippines, correct?

4 A. Yes. I worked in the Philippines.

5 Q. And worked with gaming companies in Costa Rica, correct?

6 A. That's correct.

7 Q. You gave quite a list of companies involved in illegal
8 gambling that you worked with, correct, sir?

9 A. I didn't give them unless they had a list from my -- I did
10 not give the government a list. The list was extracted from my
11 phone.

12 Q. Your companies had accounts in Manila, Hong Kong, and
13 Dubai, correct?

14 A. These are not my companies, by the way. But, yes, those
15 companies had bank accounts in various locations.

16 Q. Now, at the time you met with the government did you tell
17 them you were afraid of Gary Murphy?

18 A. Yes, I did.

19 Q. At that time you were still working with Gary Murphy,
20 correct?

21 A. Yes, I was.

22 Q. Now, your processing also involved forex accounts, correct?

23 A. My past processing, is that the question? Could you repeat
24 the question?

25 Q. Yeah. I would be happy to. I'll restate it.

L39MWEI4

Hargreaves - Cross

1 The payment processing you were doing also involved
2 forex processing, correct?

3 A. Forex trading, yes.

4 Q. And in and of itself, forex trading is not illegal, right?

5 A. I think it's more an issue of licensing.

6 Q. So the payment processing you were doing was for unlicensed
7 foreign currency exchange processing, correct?

8 A. In part, yes.

9 Q. And you told the government about all that, too, right?

10 A. Yes, I did.

11 Q. You told the government about the fees you would make,
12 correct?

13 A. Yes.

14 Q. And this was a lengthy meeting, correct?

15 A. Correct.

16 Q. And you had further discussions about the extortion,
17 correct?

18 A. Correct.

19 Q. At some point towards the end of the meeting you briefly
20 mentioned that you had tried to process medical marijuana
21 traffic, correct?

22 A. Do you have something you could show me that would jog my
23 memory?

24 Q. Yes. It's the same document, 3501-0011. It's the fifth
25 page. I think it's the next page after that. Pardon me. I'm

L39MWEI4

Hargreaves - Cross

1 sorry. It's the eighth page. One before that.

2 You see the long paragraph towards the bottom?

3 A. Yes. Thank you.

4 Q. When I asked you if you tried to process medical marijuana
5 traffic, that's correct, isn't it?

6 A. Yes, that's correct.

7 Q. In that meeting you mentioned someone called Ray, correct?

8 A. That's correct.

9 Q. You didn't even know Ray's last name when you had that
10 discussion, correct?

11 A. No, I didn't.

12 Q. So let's put this in context. September 30 now of 2018,
13 you are meeting with the government, you are telling them about
14 Ray, and you didn't know his last name, is that correct?

15 A. As I said -- maybe I should retract that. When I said I
16 didn't know his surname, again, if you can show me something
17 that says that I didn't say his name because, to my
18 recollection, I'm fairly sure that I would know Ray's surname.
19 I may have mispronounced it, I may have misspelled it, which,
20 based on my knowledge of myself and my memory, is highly
21 possible.

22 Q. Didn't you have another meeting with the government in
23 November of 2018 where you discussed Ray and you expressly said
24 you didn't know his last name?

25 A. I don't recall that. If you would like to show me

L39MWEI4

Hargreaves - Cross

1 something, by all means.

2 MR. ARTAN: Can we put 3501-0303 up.

3 Q. If you could look at the second page, sir.

4 A. I see the first line, Ray, last name unknown.

5 Q. You spoke a lot about this topic and the entire time you
6 didn't know --

7 THE COURT: I need to let the witness know a little
8 bit about the rules of the game here. When something is shown
9 to you to refresh your recollection, it itself is not in
10 evidence and, therefore, you can't say what's in that piece of
11 paper.

12 THE WITNESS: Sorry.

13 THE COURT: If it creates an independent recollection
14 on your part, so, oh, yes, now I remember I said such and such
15 to the government, that you can testify to. But if it doesn't
16 create an independent recollection, you can't just read from
17 the document. It's not in evidence. OK?

18 THE WITNESS: OK. Thank you.

19 Q. Does that refresh your recollection that even in November
20 of 2018, you did not know his last name?

21 A. Not really, no.

22 Q. During the September 30 meeting, the second meeting you had
23 with the government, did you say you had not processed a single
24 dollar of marijuana transactions?

25 A. Yes. Initially, we were engaging with a bank called

L39MWEI4

Hargreaves - Cross

1 Paynetics, and we were not successful.

2 Q. You told the government you did not process a single dollar
3 in marijuana transactions, correct?

4 A. Yes. I personally, my banking relationship, we did not,
5 which was Paynetics. That's what I'm referring to.

6 Q. You are saying you are part of this scheme for payment
7 processing and you are telling the government that you had not
8 processed a single dollar, correct?

9 A. I just explained to you what I meant.

10 Q. You told the government you were trying to code the
11 marijuana transactions as a medical services code, 8099,
12 correct?

13 A. Initially, yes.

14 Q. You didn't tell the government that that changed. You just
15 told them that that's all you were trying to do, 8099, right?

16 A. I don't recall what I told them. I'm telling you initially
17 that when we engaged in this transaction laundering scheme, the
18 dynamic was, we had an acquiring bank, they had a partner
19 called Clearsettle, and we were wanting Clearsettle to
20 integrate with us and therefore into this bank. This
21 integration happened, but we did not process a single payment
22 to my acquiring relationship. If I didn't word it like that, I
23 don't really know what to say.

24 Q. You didn't say a single word about false applications, did
25 you?

L39MWEI4

Hargreaves - Cross

1 A. I don't recall.

2 Q. You didn't say a single word about everything you've
3 testified yesterday --

4 THE COURT: I'm sorry. When are you talking about?

5 MR. ARTAN: I'll start again, your Honor.

6 Q. When I'm asking you these questions I am talking about the
7 September 30, 2018 meeting which was shortly after your arrest.
8 Do you have that in mind, sir?

9 A. I'm going to be perfectly honest with you. I was terrified
10 out of my wits on that day, and I don't really have a great
11 recollection of the details of it, to be perfectly honest.

12 Q. You spoke to the government for hours and hours that day,
13 correct, sir?

14 A. I don't dispute that.

15 Q. I'm sorry?

16 A. I don't dispute that, sir.

17 Q. Are you suggesting that what you told the government was
18 somehow inaccurate?

19 A. I am not suggesting that what I told the government was
20 inaccurate.

21 Q. What is it you are trying to suggest when you say you were
22 under a lot of stress?

23 A. I am not trying to suggest anything, sir. I am just trying
24 to answer your questions.

25 Q. My question was, in that meeting where you talked about

L39MWEI4

Hargreaves - Cross

1 trying to process medical marijuana traffic, you didn't say
2 anything about putting together false applications, did you?

3 A. I'm sorry, but I really don't recall what exactly we
4 discussed.

5 Q. You did tell them that you were going to try to process
6 medical marijuana through Paynetics, correct?

7 A. Again, I don't recall what I told them in that specific
8 meeting.

9 Q. Is that correct?

10 A. Is what correct? Sorry.

11 Q. That you were trying to process medical marijuana through
12 Paynetics.

13 A. Yes, that is correct.

14 MR. ARTAN: Your Honor this might be a good time.
15 It's kind of a break in what I'm doing.

16 THE COURT: That's fine.

17 Ladies and gentlemen, we are going to take our lunch
18 break at this time, and we will resume at a quarter of 2. See
19 you then.

20 (Jury not present)

21 THE COURT: We will see you at quarter of 2.

22 MR. TAYBACK: Your Honor, may I make one request.

23 I am going to be meeting with my client over lunch,
24 and he did not sleep well last night, but I'd like to request
25 that I be able to bring him a Coca-Cola. The marshals will

L39MWEI4

Hargreaves - Cross

1 allow it in a cup, and I can provide all that.

2 THE COURT: If he really wants a Coca-Cola, I am not
3 going to keep him from it. All right. That's fine.

4 MR. TAYBACK: Thank you, your Honor.

5 (Luncheon recess)

L39MWEI4

Hargreaves - Cross

AFTERNOON SESSION

2:10 p.m.

THE COURT: I think you already know this from my law clerk, but there was a screwup on the part of the cafeteria, so the jury didn't get lunch until about a half hour ago, so I wanted to give them time to enjoy their lunch. I think they are ready now. We can probably bring them up.

One other thing while we are talking logistics. Tomorrow, and I'll tell the jury this at the end of the day, we will start at 10:15, rather than 9:45, because of other things I have to take care of.

Let me ask first, Mr. Artan, how much longer do you think you have?

MR. ARTAN: It is hard to know, your Honor.

THE COURT: I know. But now that I have got your focus.

MR. ARTAN: I think there is a good chance that I'll go through the end of the day. I can't be sure, your Honor.

THE COURT: That would not be unreasonable. Obviously, I wouldn't want to have you go very much into tomorrow. Then, of course, there is counsel for Mr. Akhavan.

More generally, I think at the end of the day tomorrow I want to talk about the schedule generally, things like charging conference and so forth.

(Jury present)

L39MWEI4

Hargreaves - Cross

1 THE COURT: Ladies and gentlemen, for reasons that no
2 one knows, there was some problem in the cafeteria. Usually,
3 they are very good down there. I don't know what happened.

4 So I'm glad we were able -- I want you to know that
5 there is one other jury trial going on in this courthouse. My
6 law clerks fought hard to get priority for your lunch over the
7 other one. The hell with the other one.

8 Anyway, in all seriousness, we are sorry for that
9 delay. We are ready to continue.

10 Go ahead. Counsel.

11 MR. ARTAN: Thank you, your Honor.

12 BY MR. ARTAN:

13 Q. I thought I was moving on to another issue, but there is
14 one quick question I have with respect to an area that we
15 covered already.

16 Mr. Hargreaves, we were talking about the meeting that
17 you had with the government on September 30 of 2018, a couple
18 of days after your arrest.

19 Do you remember that?

20 A. Yes.

21 Q. Isn't it true you never said a word about Ruben Weigand
22 during that interview, is that correct?

23 MS. LA MORTE: Objection, your Honor. I believe this
24 line is improper impeachment.

25 THE COURT: Ground.

L39MWEI4

Hargreaves - Cross

1 MS. LA MORTE: I believe it's improperly impeaching,
2 your Honor.

3 THE COURT: I don't understand. If you want a
4 sidebar, I'll give it to you, but beyond the objection.

5 MS. LA MORTE: Your Honor, I believe there is a lack
6 of foundation because there needs to be an inconsistency in the
7 testimony before asking the witness about prior statements that
8 the witness may have made outside of the courtroom.

9 THE COURT: I will explain to you at the break why you
10 are wrong.

11 MS. LA MORTE: All right, your Honor. I'll look
12 forward to it.

13 THE COURT: Go ahead. The question will stand.
14 A. I don't recall.

15 Q. Now, you had several other meetings with the government in
16 the week or so following your arrest, correct?

17 A. I did, yes.

18 Q. It was your understanding that there was an agreement that
19 you would be pleading guilty to the charge of extortion and be
20 allowed to go back to Europe, correct?

21 A. I pled guilty to attempted extortion, yes.

22 Q. You were granted bond allowing you to go back to Europe on
23 October 12 of 2018, which was just two weeks after your arrest,
24 correct?

25 A. That is correct.

L39MWEI4

Hargreaves - Cross

1 Q. And you were given time to post that bond, correct?

2 A. Yes, I was.

3 Q. You were allowed to handle that in payments, correct? Let
4 me rephrase it.

5 You were given an additional week beyond the October
6 12 date, correct?

7 A. Along those lines.

8 MR. ARTAN: Your Honor, the real time thing is not
9 working here. I don't know if that's an issue that is easily
10 fixed. If it's not, I'll move on.

11 MS. LA MORTE: It's all good on our end.

12 THE COURT: It's working on my screen.

13 MR. ARTAN: The only reason I say is because it's been
14 kind of hard to hear the witness.

15 THE COURT: We will need to have the witness speak
16 louder. I don't want to talk about the two centuries of trials
17 that occurred in this country without real time, but --

18 MR. ARTAN: I think Ms. Deininger fixed it. I think
19 we can applaud the government's ingenuity. Thank you.

20 Q. You were allowed to go back to Europe under the terms of
21 the bond, correct?

22 A. I was allowed to go back under the terms of my cooperation
23 agreement.

24 Q. And there was an understanding that your cell phone was to
25 have GPS on it and be shared with the case agents, is that

L39MWEI4

Hargreaves - Cross

1 correct?

2 A. That is correct.

3 Q. You were to live in Barcelona, Spain and check in with the
4 agents every 48 hours, correct?

5 A. That is correct.

6 Q. And you were expected and it was hoped that you would be
7 going to Belgrade on November 6 and 7, correct?

8 A. It is correct.

9 Q. You were going to go to Belgrade in order to meet with some
10 people related to illegal gambling payment processing, correct?

11 A. That is correct.

12 Q. And not just the people involved in the gambling, but also
13 acquiring bank people, correct?

14 A. Representatives of the company operating in the payment
15 industry.

16 Q. Well, the director of Intesa Bank, for instance.

17 A. That meeting was not to go ahead at the end as it was --
18 that was a lead that was followed and was -- on my part is the
19 way I can describe that.

20 Q. But the intention was that, correct?

21 A. No. The intention was to meet with another party.

22 Q. So before you left, you had -- if I'm not mistaken, you had
23 five more meetings with the government, correct?

24 A. I don't recall the exact amount.

25 Q. Now, one of the understandings in your departure was that

L39MWEI4

Hargreaves - Cross

1 you would not be committing any illegal acts while you were
2 gone, correct?

3 A. That is correct.

4 Q. But there was an exception so that you could prepare and
5 send fraudulent application packages to Alpha Bank and Bank
6 Intesa, correct?

7 A. I did send application packs to Alpha Bank, yes. I'm
8 sorry. I should say, to an employee of Alpha Bank and not to
9 Intesa, no.

10 Q. There was no exception for the medical marijuana
11 processing, was there?

12 A. Sorry. Are you asking me if I was directly told not to do
13 something?

14 Q. Correct.

15 A. I was not instructed to, no.

16 Q. Let me put it to you a different way. You were authorized
17 to engage in particular illegal activity, correct?

18 A. I'm sorry. I'm struggling to hear you.

19 Q. You are having trouble hearing me?

20 A. Yes, I was. Sorry.

21 Q. I'm speaking pretty loudly. I am not sure it's me.

22 Can you hear me now?

23 A. Yes, I can.

24 Q. You were authorized by the government to engage --

25 MS. LA MORTE: I think the mic is out.

L39MWEI4

Hargreaves - Cross

1 MR. ARTAN: It's not working. The green light is on.

2 Q. This better?

3 A. Yes. That's great.

4 Q. Sorry.

5 A. No problem.

6 Q. I am not sure what it was. Let me start over.

7 A. Please.

8 Q. You were authorized to engage in particular illegal
9 activity from October 30, 2018 onward, correct?

10 A. I was not authorized to engage. I believe my team -- I
11 believe myself personally, I did not engage in providing
12 information.

13 Q. Let me restate the question because maybe it's not being
14 clear.

15 On October 30, 2018, you were given an admonishment by
16 the FBI and you were authorized to engage in particular illegal
17 activity, correct?

18 A. I'm sorry. Which particular illegal activity? I was not
19 told by anyone to engage in illegal activity.

20 Q. Maybe I can put something up, with the Court's permission,
21 to refresh your memory and guide us through this. It would be
22 Exhibit IWX-31.

23 I believe you are looking at the caption of the first
24 page. Do you see that, sir?

25 A. Yes, I do.

L39MWEI4

Hargreaves - Cross

1 Q. If you can look at the second page, read the top half of
2 the page and see if that refreshes your recollection.

3 A. Understood. Thank you.

4 Q. On October 30, 2018, you were admonished not to engage in
5 any illegal activity except with one exception, correct?

6 A. Correct.

7 Q. And the exception was to prepare and send fraudulent
8 application packages to intermediaries or representatives of
9 Alpha Bank and Bank Intesa, correct?

10 A. Correct.

11 Q. And there was no exception for anything other than Alpha
12 Bank and Bank Intesa, correct?

13 A. To the best of my knowledge, at this stage, no.

14 Q. Are you aware of any other written authorization you had to
15 engage in illegal activity from that date forward?

16 A. You'd have to jog my memory, I'm afraid.

17 Q. Well, are you telling us you are not aware currently of
18 having had any written authorization to that effect, correct?

19 A. I'm telling you I don't remember now.

20 Q. Are you saying that it is possible you have such
21 authorization, you just don't remember?

22 A. I am telling you that I don't remember.

23 Q. Forgive me, but is it you don't remember either way or you
24 just don't remember it happening?

25 A. To be perfectly honest with you, the document you showed me

L39MWEI4

Hargreaves - Cross

1 is the first time I have ever seen that document, so I don't
2 really know how else to answer the question. I'm sorry.

3 Q. You were read that admonishment, correct?

4 MS. LA MORTE: Objection.

5 THE COURT: Ground.

6 MS. LA MORTE: Misleading, 403.

7 THE COURT: Sustained.

8 MR. ARTAN: Your Honor, may I show him the exhibit
9 again to refresh his memory?

10 THE COURT: Yes.

11 MR. ARTAN: Can we have IWX-31 placed before the
12 witness, page 2.

13 Q. You see the top paragraph, sir?

14 A. Yes, I do.

15 Q. Does that refresh your memory as to whether you were read
16 an admonishment about engaging in illegal activity?

17 A. Yes, it does. Thank you.

18 Q. It's true that you were, correct?

19 A. It's true that I was. Sorry. Could you repeat that
20 question.

21 Q. It is true that you were admonished in that way, correct?

22 A. Yes, it is.

23 Q. And that's the same admonishment we talked about before
24 concerning Alpha Bank and Bank Intesa, correct?

25 A. Yes, it is.

L39MWEI4

Hargreaves - Cross

1 Q. If I'm understanding your recollection, sir, you don't
2 remember whether you were admonished in any other way
3 concerning illegal activity. Is that your recollection?

4 A. Yes, that's my recollection.

5 Q. Now, you had pled guilty before you left for Europe in
6 October of 2018, correct?

7 A. That's correct.

8 Q. Now, you were subsequently charged in a superseding
9 indictment, correct?

10 A. That's correct.

11 Q. Because the first indictment you pled guilty for was just
12 for the attempted extortion, correct?

13 A. It is correct.

14 Q. Then in February of 2020, you entered into a cooperation
15 agreement with the government and ended up pleading guilty to
16 the four charges that you talked about this morning, correct?

17 A. Correct.

18 Q. And the cooperation agreement you entered into, which I
19 believe was Exhibit 2101, Government Exhibit 2101, makes
20 mention of the fact that on page 4, in the middle of the page,
21 that you stole approximately \$40,000 in funds from your
22 employer in 2019 outside of the United States.

23 A. That is correct.

24 Q. Was that Gary Murphy?

25 A. Yes, it was.

L39MWEI4

Hargreaves - Cross

1 Q. Now, you had acknowledged that you were afraid of Gary
2 Murphy, correct?

3 A. That's correct.

4 Q. And yet you stole money from him?

5 A. Yes, that's correct.

6 Q. Under what circumstances did you steal money from him?

7 A. Sorry. Could you elaborate what you mean, in what
8 circumstances?

9 Q. Did you take it out of his pocket? What did you do? How
10 did you steal it from him?

11 A. There were funds returned to the company that were owed to
12 us, and I had -- I was actually owed money by the company. I
13 think it is probably relevant to mention that. I had been
14 unpaid and I took matters into my own hands incorrectly. I
15 stole the money. I acknowledge that. And I transferred those
16 monies to -- sorry. I had one of my employees transfer the
17 money to my account.

18 Q. If I'm understanding you, you didn't make a demand for the
19 money, you just took it instead?

20 A. That's correct.

21 Q. Is that part of the reason that these extra charges were
22 added in the superseding indictment?

23 A. No, they were not.

24 Q. Now, you acknowledged earlier today that you are facing 90
25 years in a potential sentence, correct?

L39MWEI4

Hargreaves - Cross

1 A. A maximum of 90, yes.

2 Q. And there has been some discussion about a 5K letter.

3 Do you recall that?

4 A. Yes, sir.

5 Q. In fact, you made reference to it yourself, correct?

6 A. Yes, sir.

7 Q. Now, let me put it to you this way. Is it your
8 understanding that a 5K letter would be a letter from the
9 government making a recommendation as to your sentence and
10 giving the Court information as to what you had done on behalf
11 of the government?

12 A. I don't believe it's a recommendation. I think it just
13 contains the content of my cooperation and also my crimes. If
14 my understanding is incorrect, please tell me.

15 Q. It is your understanding of the sentencing process that the
16 government and your lawyer will each make recommendations to
17 the Court as to your potential sentence, correct?

18 A. Sorry. I'll repeat what I said. My understanding is that
19 the 5K 10K letter contains the content of my cooperation and
20 also outlines my crimes.

21 Q. And whether the government offers such a letter to the
22 Court depends on whether they determine you have given
23 substantial assistance to the government, correct?

24 A. My understanding is whether I have held up the terms of my
25 cooperation agreement.

L39MWEI4

Hargreaves - Cross

1 MR. ARTAN: Just one moment, please, your Honor.
2 Forgive me.

3 Q. The government has discretion as to whether or not they
4 provide the Court with such a letter, correct?

5 A. Yes, that's correct.

6 Q. And it's your understanding of the law that such a letter
7 is based on whether the government decides you have provided
8 what's termed substantial assistance, correct?

9 MS. LA MORTE: Objection. Just to law.

10 THE COURT: Well, let's just take out those three
11 words.

12 So the question is: Is it your understanding that
13 such a letter is based on whether the government decides you
14 have provided what's termed substantial assistance. Is that
15 your understanding?

16 THE WITNESS: Yes.

17 Q. It is your understanding of the sentencing process that
18 you'll have a hearing, correct?

19 A. Yes.

20 Q. And is your understanding of the sentencing process that
21 before the hearing your lawyer and the government's lawyers
22 will provide the Court with submissions, correct?

23 A. Yes.

24 Q. It is your understanding that part of the submissions will
25 include recommendations from your lawyer and the government

L39MWEI4

Hargreaves - Cross

1 about your potential sentence, correct?

2 MS. LA MORTE: Objection. Asked and answered.

3 THE COURT: Well, I'm not sure that there is a basis
4 for part of that question. But if you want to point me to
5 something in the cooperation agreement that deals with that
6 problem, I will consider it.

7 MR. ARTAN: I'm sorry for being slow here, your Honor,
8 but is the issue about a recommendation or --

9 THE COURT: Excuse me.

10 MR. ARTAN: Is the issue about whether there is a
11 recommendation made?

12 THE COURT: Yes. The issue is about whether the
13 government makes a recommendation about potential sentencing.
14 Maybe I'm misunderstanding your question.

15 MR. ARTAN: It could be that I don't practice so much
16 in this district as in other parts of the country.

17 THE COURT: That may be. I don't want to interrupt
18 for a sidebar. I will fill you in later. Why don't you just
19 move on.

20 MR. ARTAN: I'll move on. I don't want to take up the
21 Court's time with this issue.

22 THE COURT: Just to move this along, it is your
23 expectation, is it not, that if the government writes a letter
24 to the judge, a 5K letter that you have described, describing
25 your substantial assistance, that may result in a reduced

L39MWEI4

Hargreaves - Cross

1 sentence?

2 THE WITNESS: Yes.

3 MR. ARTAN: Thank you, your Honor.

4 Q. Mr. Hargreaves, you ended up going back to Europe in late
5 October 2018, correct?

6 A. That's correct.

7 Q. And in the succeeding months you had numerous meetings with
8 potential targets of an investigation, correct?

9 A. That is correct.

10 Q. I am going to come back to that later, but what I'd like to
11 do now is turn to 2017. If I'm understanding what you talked
12 about yesterday, you and Koen Van Prat and Steve Bueshner and
13 Stanley Skoglund were interacting in relation to work for
14 Intrapay, correct?

15 A. Correct.

16 Q. Now, Intrapay was one of Gary Murphy's businesses, correct?

17 A. Correct.

18 Q. And Intrapay was Mr. Murphy's effort to get into clean
19 legal business, correct?

20 A. Correct.

21 Q. Koen Van Prat was a well-established figure in finance and
22 banking, correct?

23 A. I never heard of him before I met him, to be honest with
24 you.

25 Q. And Stanley Skoglund had a history of working in -- to your

L39MWEI4

Hargreaves - Cross

1 understanding, had a history of working in risk assessment and
2 was in management and finance, correct?

3 A. My only understanding about Stanley Skoglund was the
4 information provided to me by Koen Van Prat in a chance meeting
5 that I had with him in an elevator in Dubai some years before,
6 so I know he had a consulting firm called Minerva, and I know
7 he was an exemployee of Visa. That's the extent of my
8 knowledge of Mr. Skoglund.

9 Q. Steve Bueshner, what was your understanding about him?

10 A. He had -- I don't remember the specific organizations, but
11 I know that he had been employed prior to being employed by
12 Intrapay at some sizeable payment institutions.

13 Q. To set the stage, Intrapay was set up to do legal business,
14 correct?

15 A. Correct.

16 Q. And Intrapay had engaged the services of Koen Van Prat,
17 correct?

18 A. Correct.

19 Q. And relied on consultancy from Mr. Skoglund, correct?

20 A. That is correct.

21 Q. And also was relying on the services of Steve Bueshner,
22 correct?

23 A. Correct.

24 Q. Now, in 2017, those of you in that group of Intrapay people
25 were interested in getting involved in payment processing for

L39MWEI4

Hargreaves - Cross

1 at that time medical marijuana, correct?

2 A. That is correct.

3 Q. Now, when you were working initially with Intrapay in
4 2017 -- let me take the word initially out and start over.
5 When you were working in 2017 with Intrapay, you were also
6 working for Pago Global, correct?

7 A. It was being wound up. Yes. I was transitioning.

8 Q. Koen Van Prat reached out to Mr. Akhavan's company to
9 introduce his services as a potential sister in credit card
10 processing for Eaze, is that correct?

11 A. I don't know how that communication went. I just know the
12 aftermath of that presumed communication was my receiving
13 WhatsApp communications discussing this subject, which led to
14 us then having interaction.

15 MR. ARTAN: If I could show the witness Exhibit IWX-4
16 and ask Mr. McLeod to put that up.

17 Q. Could you review that, please, sir.

18 A. Tonya, Guy --

19 Q. I would ask you to review it, please.

20 A. Sorry.

21 Q. That's all right.

22 A. All right.

23 Q. Do you recognize that?

24 A. I do, yes.

25 Q. That's an e-mail from Koen Van Prat to Guy Mizrachi at Mr.

L39MWEI4

Hargreaves - Cross

1 Akhavan's company, correct?

2 A. It is, yes.

3 Q. You are copied on that e-mail, correct?

4 A. Yes, I am.

5 MR. ARTAN: Your Honor, move it into evidence, please.

6 MS. LA MORTE: No objection.

7 THE COURT: Received.

8 (Defendant's Exhibit IWX-4 received in evidence)

9 Q. In this e-mail Koen Van Prat is introducing himself and
10 saying that he wants to introduce his role as a company.

11 MS. LA MORTE: Objection, your Honor.

12 MR. ARTAN: I'll just read it.

13 Q. In the e-mail Mr. Van Prat says: I trust you are all doing
14 fine.

15 Based on a few WhatsApp exchanges I had with Ray, I
16 would like to plan a call for me to introduce my new role and
17 company I represent and, at the same time, exchange a few ideas
18 Oliver and I have in regards to how believe we have a few
19 interesting solutions for your business.

20 We took liberty in doing some research as to how we
21 can help you with the adult traffic, but equally believe we can
22 offer a solution for www.eaze.com processing.

23 You see that?

24 A. Yes, sir.

25 Q. At the time Koen Van Prat sent that e-mail, he was working

L39MWEI4

Hargreaves - Cross

1 with you under Intrapay with the understanding that Intrapay
2 would be running clean business, correct?

3 A. Correct.

4 Q. And Koen Van Prat then followed up further to try and get
5 the business for this kind of processing, correct?

6 A. That is correct.

7 Q. Just so it's clear, when it says adult traffic, that's
8 legal business as well, correct?

9 A. Pornography is a legal business, yes.

10 Q. And in mid October, Koen Van Prat also reached out to
11 Mr. Akhavan's business to push ahead with the payment
12 processing ideas he had, correct?

13 A. That would be consistent with my communications with Koen.
14 I don't know if I was cc'd on those e-mails or not.

15 Q. Perhaps I can show you -- Mr. McLeod would be the one
16 actually showing you IWX-25.

17 That's an e-mail from Koen Van Prat to Ray Akhavan and
18 you are copied on that, correct?

19 A. Yes, I am.

20 MR. ARTAN: Your Honor, I would move that into
21 evidence.

22 MS. LA MORTE: One moment, your Honor.

23 No objection.

24 THE COURT: Received.

25 (Defendant's Exhibit IWX-25 received in evidence)

L39MWEI4

Hargreaves - Cross

1 Q. Koen Van Prat was making a business pitch, correct?

2 A. That is correct.

3 Q. And there was nothing secretive about what he was going,
4 correct?

5 A. No, nothing secretive.

6 Q. In fact, this e-mail is going to four or five different
7 e-mail domains, correct?

8 A. That is correct.

9 Q. And the reason there was nothing secretive about it was
10 that the intention was to carry through with a legal payment
11 processing system, correct?

12 A. Could you repeat that.

13 Q. The reason there was nothing secretive about this was the
14 intention was that the process be legal, correct?

15 A. I am just going to answer very, very plainly on this. This
16 was a slightly -- there is a level of what appeared -- if I
17 tell you it now, you are going to think sounds very stupid.
18 Quite frankly, we didn't really know the nuances, I certainly
19 didn't, between state and federal law in the U.S. And stupid
20 as it sounds, yeah. The short answer to your question is yeah.

21 MR. ARTAN: One moment, please, your Honor.

22 Q. If I understand your comments you just made, it was your
23 mindset at that time that these ideas going forward were for
24 legal business, correct?

25 A. Yes.

L39MWEI4

Hargreaves - Cross

1 Q. In fact --

2 A. Do you mind -- I would like to actually amend that answer,
3 if I may.

4 THE WITNESS: May I?

5 THE COURT: All right. Go ahead.

6 A. I knew that we were doing something that was not wholly
7 white, and there was a term that was used very much certainly
8 in the industry where I worked which was, is it gray or is it
9 white. And I would say, my view on this was that this was gray
10 business. That may be difficult for the Court to understand,
11 but I would say that I understood there was areas of this that
12 were illegal, but also there were areas to the fact that
13 medical marijuana was legal to purchase that made it legal. We
14 therefore considered it to be something a little bit gray, as
15 opposed to black or white.

16 I'm sorry if that's a slightly ambiguous answer, but
17 that's -- but that is my answer.

18 Q. Thank you.

19 By the time you were set up to go and meet in November
20 with the idea of meeting in November, you and Mr. Van Prat and
21 the others in Intrapay had come up with a plan, basically, to
22 conduct the payment processing, correct?

23 A. We had an acquiring bank that was interested in miscoding,
24 yes.

25 Q. Well, you wrote an e-mail to Mr. Akhavan's company

L39MWEI4

Hargreaves - Cross

1 outlining the process, correct?

2 A. Could you show it to me?

3 Q. Yup.

4 MR. ARTAN: If Mr. McLeod will please show IWX-22.

5 Q. Have you had a chance to review that?

6 A. Yes, I have.

7 Q. It's an e-mail from you to Guy and Ray at Mr. Akhavan's
8 company, correct?

9 A. Yes, it is.

10 MR. ARTAN: We would move it into evidence, your
11 Honor.

12 MS. LA MORTE: No objection.

13 THE COURT: Received.

14 (Defendant's Exhibit IWX-22 received in evidence)

15 Q. Now, it's a fairly detailed explanation of your plan,
16 correct?

17 A. Yes.

18 Q. It suggests that there be a payment flow from CE to
19 Clearsettle to Pago to Paynetics, right?

20 A. Yes, that's correct.

21 Q. It suggests setting up sites. It also talks about
22 businesses that you already had purchased, correct, Lorry
23 Limited and others, correct?

24 A. I didn't see the mention of those names.

25 Q. I beg your pardon?

L39MWEI4

Hargreaves - Cross

1 A. You referenced a company name. I don't see it referenced.

2 Q. It's further down. I'm sorry.

3 You see that?

4 A. I do, yes. Thank you.

5 Q. You had basically supplied Mr. Akhavan's company with a
6 turnkey plan for going forward with the payment processing,
7 correct?

8 A. I had experience in creating fraudulent application packs,
9 yes, and I did submit this, yes.

10 Q. Sir, I notice when I ask you one question you intervene and
11 say that it was fraudulent.

12 Have you been coached to say that things are
13 fraudulent when I ask you some question that has a different
14 issue?

15 A. No, sir.

16 Q. Because yesterday you used the word fraudulent something
17 like 50 times.

18 Do you remember that?

19 A. But they are fraudulent.

20 Q. In fact, on two occasions yesterday you did not use the
21 word fraudulent and then you said, sorry, and you added in
22 fraudulent.

23 Do you remember that?

24 A. I don't, no.

25 Q. Maybe we can show you.

L39MWEI4

Hargreaves - Cross

1 MR. ARTAN: One moment, please, your Honor.

2 If we could look at the trial transcript from
3 yesterday, page 728.

4 A. Could you guide me by number.

5 Q. Lines 1 through 6.

6 A. Yes, I see it.

7 Q. Your answer was: "Initially it was discussed, it would be
8 an individual we discussed, for example, myself flying to a
9 location, Germany, wherever it might be, with the application
10 packs on a pen drive or something -- I'm sorry -- the
11 fraudulent application packs and providing them to the ISO, for
12 him to provide them, by whatever means, to the acquiring banks
13 in question."

14 You see you apologized for not using the word
15 fraudulent. Do you see that?

16 A. Yes, I do.

17 Q. You did that again yesterday, right?

18 A. This is what you are showing me, right.

19 (Continued on next page)
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L39PWEI6

Hargreaves - Cross

1 MR. ARTAN: We'll look at another one. At page 793,
2 lines 10 to 13.

3 MR. FOLLY: Your Honor, may we have a brief sidebar?

4 THE COURT: I'm sorry?

5 MR. FOLLY: May we have a brief sidebar?

6 THE COURT: I haven't heard any objection yet from the
7 government. Are you making an objection?

8 MS. LA MORTE: Your Honor, there --

9 THE COURT: Sustained.

10 MS. LA MORTE: Your Honor, there's an issue regarding
11 the exhibits that are being shown.

12 THE COURT: All right. Let's have a sidebar.

13 (Continued on next page)
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L39PWEI6

Hargreaves - Cross

1 (At the side bar)

2 THE COURT: The usual is one attorney for each side,
3 but all right.

4 MS. LA MORTE: Thank you, your Honor.

5 THE COURT: Okay. First, the prior testimony, even
6 from this very trial, cannot be read unless it's inconsistent.
7 So those questions as to the way -- and you didn't even put a
8 question. You just started reading from it. That was
9 improper.

10 MR. ARTAN: Okay. I apologize, your Honor.

11 THE COURT: Second, what's your problem?

12 MR. FOLLY: Your Honor, I apologize. I think there
13 was an issue -- we're still trying to get to the bottom of
14 this. My understanding is there was an e-mail that was
15 intended to be sent from the defense to the prosecutors last
16 night that contained certain exhibits that are being used
17 today, and in fact, I don't think we were included on that
18 e-mail, as I understand it. And as a result, we haven't seen
19 documents that are intended to be shown to this witness during
20 this cross-examination, including some of the documents that
21 were already shown.

22 THE COURT: What is your basis for saying that you
23 ever have to be shown in advance any exhibits that are being
24 used for cross-examination?

25 MS. LA MORTE: Your Honor, I don't believe these are

L39PWEI6

Hargreaves - Cross

1 impeachment documents.

2 THE COURT: You had that wrong, and now you have that
3 wrong. We'll talk about that later. I don't want to waste my
4 time right now with your mistake.

5 I repeat, there is no rule that says that exhibits
6 that are used on cross-examination have to be furnished in
7 advance by even one minute before they are put on the screen.
8 That is a rule that's existed for at least 200 years.

9 MS. LA MORTE: Your Honor, may I ask a clarifying
10 question? You had ordered that the defendants produce an
11 exhibit list.

12 THE COURT: That they intended to use on their case.

13 MS. LA MORTE: And again, just clarifying. That
14 wouldn't apply --

15 THE COURT: No.

16 MS. LA MORTE: Okay.

17 THE COURT: If it's not proper cross-examination,
18 which is what I think you're trying to get at by saying
19 impeachment, that's a different question. You can object to it
20 if it's not proper cross-examination. You were under the
21 impression --

22 MS. LA MORTE: Mmm, hmm.

23 THE COURT: -- that cross-examination is limited to
24 inconsistent statements. That's not true. There is nothing in
25 the federal rules of evidence that so limits it. And, in fact,

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Hargreaves - Cross

1 most cross-examination has all sorts of other things.

2 For example, the cross-examination that you objected
3 to was the defense trying to show that when first asked to
4 cooperate, first importantly cooperate, he didn't say one word
5 about Mr. Weigand. That is, if the jury accepts his argument,
6 evidence that he was later on making it up. And the reason the
7 jury could infer that he was making it up later on is that he
8 didn't mention it first. That's classic cross-examination. I
9 am sorry --

10 MR. ARTAN: Your Honor?

11 THE COURT: I am sorry that I am unfairly imputing to
12 all of you my 50 years of familiarity with the federal rules of
13 evidence. Now, let's go back to work.

14 (Continued on next page)

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L39PWEI6

Hargreaves - Cross

1 (In open court)

2 THE COURT: Go ahead, counsel.

3 BY MR. ARTAN:

4 Q. So, Mr. Hargreaves, do you -- do you recall a couple of
5 times apologizing for not using the word "fraudulent" when
6 you're talking about applications?

7 A. Yes, I do.

8 Q. Is that because it was suggested to you that you should use
9 the word fraudulent as much as possible?

10 A. No, it was not.

11 Q. And looking at Exhibit IWX22, is there anything in that
12 exhibit about miscoding?

13 A. Could you scroll down, please? Is that the total? No,
14 there is not. I'm sorry. Thank you.

15 Q. Is there any suggestion in that e-mail that anything --
16 I'll withdraw that question.

17 So prior to your January 2018 meeting in Calabasas,
18 you had already sent a specific proposal as to how the payment
19 processing would be occurring, correct?

20 A. An initial proposal or suggestion, yes. How I would have
21 done it at that time, yes.

22 Q. And this was a plan that you and Koen Van Prat and Stanley
23 Skoglund and Steve Buechner had talked about before you sent it
24 off, correct?

25 A. Correct.

L39PWEI6

Hargreaves - Cross

1 Q. Now, yesterday you talked about defining the word
2 fraudulent because your activity was created to trick the
3 acquiring bank into providing us -- you with a merchant
4 account, correct?

5 A. Correct.

6 Q. Now, earlier today, you acknowledged that the acquiring
7 banks were often aware of these inconsistencies, correct?

8 THE COURT: Sustained. That's inconsistent with his
9 prior testimony.

10 Q. Now, you discussed a January meeting in Calabasas, correct?

11 A. Do you mean, did we plan one? Do you mean, did we attempt
12 to coordinate one?

13 Q. No. You actually discussed having one, correct?

14 A. Yes.

15 Q. Okay.

16 A. Coordinating it.

17 Q. Well, I'm not following you. You just said "coordinating
18 it"?

19 A. Oh, sorry. Apologies. I thought you were talking about
20 communications between -- sorry, you're talking about
21 communication -- yesterday, yes, we did. Yes.

22 Q. Okay. Let's start over so there's clarity in my mind at
23 least. You had a meeting in Calabasas in January, correct?

24 A. Yes, sir.

25 Q. And it was one meeting, correct?

L39PWEI6

Hargreaves - Cross

1 A. It was a couple of meetings over a few days.

2 Q. Well, that -- it was only one meeting; isn't that true?

3 A. No, it's not.

4 MS. LA MORTE: Objection.

5 MR. ARTAN: I'll withdraw that.

6 Q. Where were these couple of meetings you're talking about?

7 A. In the office in Calabasas, in Ray's house.

8 Q. Isn't it true that you had a meeting, there were people
9 from Worldline who came, you left and Koen went on a plane and
10 left California after the one meeting; isn't that true?

11 A. No, it's not.

12 Q. So what day was the first meeting?

13 A. I don't recall.

14 Q. What day was the second meeting?

15 A. You'd have to look at the flight times and the time we
16 stayed in the hotel.

17 Q. Well, the flight times show that Mr. Koen left the same
18 day?

19 A. The day he arrived? That's impossible.

20 Q. So you don't know what day the meeting occurred, but it's
21 impossible that the date that Mr. Koen left was the same day?

22 A. The reason I say that is because we stayed in the hotel for
23 at least two nights, which was arranged by Mr. -- by Ray.

24 Q. So yesterday you said there was a series of meetings, but
25 you only described one; is that correct?

L39PWEI6

Hargreaves - Cross

1 A. I'm sorry. As I said, we had a couple of meetings. We had
2 meetings at his office. We had dinner at his house.

3 Q. Now, you never met with Mr. Weigand at Mr. Akhavan's house,
4 did you?

5 A. No, I didn't.

6 Q. And for part of your meeting in Calabasas, Worldline people
7 were there, correct?

8 A. Yes, they came in.

9 Q. And you weren't keeping anything secret from those
10 Worldline people, correct?

11 A. We certainly weren't discussing the Eaze project in front
12 of them, no.

13 Q. I'm not following your answer. Did you discuss the Eaze
14 project in front of the Worldline people?

15 A. Not to my recollection, no. They were not part of it.

16 Q. Now, in London you met with someone named Andreas who was
17 with Mr. Weigand, right?

18 A. If -- yeah, I believe that was his name. The tall
19 gentleman.

20 Q. Well, his role was going to be an ISO in your payment
21 processing plan, correct?

22 A. His role was pretty, it literally meant him being handed --
23 at the time of that discussion, it pretty much involved him
24 being handed a memory stick, and handing it in to the acquiring
25 bank. That was the original discussion that was had.

L39PWEI6

Hargreaves - Cross

1 Obviously, that situation morphed quite dramatically.

2 Q. Did you say yesterday that he was going to be the ISO?

3 A. Yes, I did.

4 Q. And that would have involved him interfacing with the
5 acquiring banks, right?

6 A. That is correct, yes.

7 Q. And that's, in fact, what happened, right?

8 A. I couldn't tell you how -- I know that we were submitting
9 application packs directly to the acquiring bank, and we were
10 also submitting application packs to Ruben.

11 Q. You were faxing them?

12 A. Submitting was the word I used.

13 Q. Did you say you were faxing them?

14 A. No, sir.

15 Q. Okay. I'm just looking at the transcript here.

16 Well, when you say you were submitting them to Ruben,
17 you were submitting them to EUprocessing, correct?

18 A. That is correct, yeah.

19 Q. And you didn't say -- you didn't address those e-mails --
20 you didn't say "hi Ruben," correct?

21 A. Originally, I think some, yes; some, no.

22 Q. Well, how many yes?

23 A. I can't answer that. We had hundreds of e-mails flying
24 around.

25 Q. And none of them said "hi Ruben"?

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Hargreaves - Cross

1 A. I don't think that's the case. I think some of them did.

2 Q. Well, you would --

3 A. You'd have to check, but my understanding is that some of
4 them did.

5 Q. And you were friendly with Mr. Weigand, correct?

6 A. I wouldn't say we were friends, no.

7 Q. Now, Andreas, the only e-mail for him was EUprocessing.com
8 at ProtonMail, right?

9 A. No, I didn't -- no, I don't believe that is the case.

10 Sorry, did you say Christian?

11 Q. No, I said Andreas.

12 A. Sorry. Then, no, I don't believe that was his e-mail.

13 Q. So what was his e-mail?

14 A. I don't know.

15 Q. If your team wanted to communicate with him, they would
16 send an e-mail to EUprocessing, correct?

17 A. Communicate with whom, Andreas?

18 Q. Yes.

19 A. I never really communicated with Andreas apart from meeting
20 him. In fact, I met with him at the Cafe Royal in the bar and
21 in the restaurant in the evening, and beyond that, I didn't
22 communicate with him. Unless you're telling me that he was one
23 of those other e-mails that we don't -- that I don't know --

24 THE COURT: No, no, no. First of all, you can't put
25 questions to the lawyer, and he can't make statements of fact

L39PWEI6

Hargreaves - Cross

1 to you. So --

2 THE WITNESS: Sorry.

3 THE COURT: -- move on.

4 BY MR. ARTAN:

5 Q. So it's your testimony that you're not aware of
6 communicating with Andreas, even though he was the ISO?

7 A. Unless he was using one of the e-mails that I don't know
8 who the user was, the answer is no.

9 Q. Now, you were saying that you don't generally use
10 ProtonMail in your work; is that correct?

11 A. At the time I didn't.

12 Q. I'm sorry?

13 A. At that time, I would only use ProtonMail for projects that
14 I felt require a high level of discretion, typically projects
15 that were illegal.

16 Q. Well, didn't you use ProtonMail to communicate with the
17 U.S. government?

18 A. Yes, because it is discrete. In actual effect, I'm not --
19 I'm just trying to remember if I did or didn't. Yes, I did
20 communicate at times using a ProtonMail account to the U.S.
21 government.

22 Q. Now, you were asked about -- yesterday you were asked about
23 a plan where you would be submitting five to ten applications,
24 application packs, a month; do you remember that?

25 A. Yes, I do.

L39PWEI6

Hargreaves - Cross

1 Q. Now, how many total packs were submitted?

2 MS. LA MORTE: Objection.

3 THE COURT: Ground?

4 MS. LA MORTE: Personal knowledge by him or throughout
5 the scheme or what?

6 THE COURT: Okay. So do you want to narrow the
7 question?

8 MR. ARTAN: Sure.

9 BY MR. ARTAN:

10 Q. So yesterday you were testifying a lot -- about a lot of
11 packets getting submitted, correct?

12 A. I was testifying -- I was testifying about packs, a lot
13 of -- the plan, the rollout of what we wanted to. Bear in mind
14 that this was also a sales pitch. We wanted this to grow
15 beyond the initial submissions. As, unfortunately, we
16 discovered fairly quickly, that the apparently friendly banks
17 weren't so friendly.

18 Q. Please listen to my question. Yesterday, you testified
19 about packs being submitted, correct?

20 A. Yes, sir.

21 Q. Okay. And you stated yesterday that these packs were
22 submitted by your people, correct?

23 A. Yes, sir.

24 Q. And you didn't submit them yourself, did you?

25 A. Me, myself, personally?

L39PWEI6

Hargreaves - Cross

1 Q. Correct.

2 A. No, I did not.

3 Q. Okay. So yesterday when you were asked about packs being
4 submitted, you were speaking for your company, correct?

5 A. Yes, I was.

6 Q. Without personal knowledge, correct?

7 A. I was cc'd on a lot of e-mails.

8 Q. Without personal knowledge, correct?

9 THE COURT: Sustained.

10 Q. Now, today when I asked --

11 THE COURT: It's ambiguous.

12 Q. Today when I asked you about packs being submitted, you
13 said you don't know because you weren't doing them?

14 MS. LA MORTE: Objection.

15 THE COURT: So maybe I can move this along. When
16 these packs were submitted, were you notified?

17 THE WITNESS: Yes, I was. I was typically cc'd.

18 THE COURT: Okay. And roughly, to the best of your
19 recollection, how many fraudulent packs were submitted?

20 THE WITNESS: I think we had four in total -- I think
21 four or five companies with different amounts of websites
22 submitted to multiple banks.

23 THE COURT: So four or five companies. And did each
24 of them submit numerous packets, a few packets, some both?

25 THE WITNESS: They were linked to multiple websites,

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Hargreaves - Cross

1 some with one, some with two, and they were submitted to
2 different acquiring banks.

3 THE COURT: All right.

4 BY MR. ARTAN:

5 Q. Okay. Let me be more clear. When I'm talking about
6 submitted, I'm talking about submitted to EUprocessing.

7 A. Okay. What was the question in relation?

8 Q. I want to ask you if the question you just gave pertains to
9 submissions to EUprocessing?

10 A. We submitted some packs to EUprocessing and some directly
11 to the acquiring banks.

12 Q. Is there a single e-mail that shows that your team
13 submitted a packet directly to an acquiring bank?

14 A. I don't know. I can't answer that.

15 Q. And you didn't do it personally, did you?

16 A. No, I didn't.

17 MR. ARTAN: One moment. I'm sorry, your Honor.

18 THE COURT: Take your time.

19 Q. Now, you've mentioned more than once a gentleman named
20 Michele Furlan, correct?

21 A. Yes, sir.

22 Q. And he, if I understood, worked for Intrapay helping create
23 the application packets, correct?

24 A. He worked for -- he was contracted by iMerchant Services.

25 Q. And he also had a company called Spinwild, correct?

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Hargreaves - Cross

1 A. Yes.

2 Q. And Spinwild had involvement in the processing of the Eaze
3 transactions, correct?

4 A. No, they -- no. Spinwild's responsibility was in the
5 creation of the application packs.

6 Q. Well, didn't all the wires concerning this -- these
7 transactions go through Spinwild?

8 MS. LA MORTE: Objection. Foundation.

9 THE COURT: Sustained.

10 Q. So you have no knowledge of Spinwild having done anything
11 related to the payment processing?

12 MS. LA MORTE: Objection. Vague.

13 MR. ARTAN: I'll restate it.

14 Q. Other than creating the application packs, you don't have
15 any knowledge of Spinwild having been involved in the payment
16 processing?

17 A. They -- I mean, the acquiring -- so whenever you talk to me
18 about payment processing, I presume you're referring to the
19 actual action of processing a payment. And in regards to this
20 transaction laundering scheme, no, that was not -- they were
21 not involved in relationships with entities that could process
22 payments. Their role, certainly while they worked with me, was
23 in supporting and the creation of these application packs.

24 MR. ARTAN: Your Honor, I'd like to show the witness
25 an exhibit.

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Hargreaves - Cross

1 THE COURT: Okay.

2 BY MR. ARTAN:

3 Q. IWX35. Can you have a look at that, sir?

4 A. Yes.

5 Q. Do you recognize it?

6 A. I recognize the company name on it.

7 Q. Do you know what the document is?

8 A. Honestly, no, I don't. It looks like a payment. It looks
9 like -- yeah, it looks like a payment advice from a company
10 called Kantox Limited.

11 THE COURT: Whoa, whoa, whoa. It's not in evidence.

12 Q. So yesterday you said --

13 THE COURT: Bear with me one minute.

14 (Pause)

15 These lights should go on higher, but they're not, for
16 some reason. Oh, well. Sorry, counsel. Go ahead.

17 MR. ARTAN: Thank you, your Honor.

18 BY MR. ARTAN:

19 Q. I have a quick question to ask about something I forgot to
20 ask earlier. In London, you talked about having discussions
21 with various people in a hotel room; do you remember that?

22 A. Yes, I do.

23 Q. And you had mentioned that several people were there,
24 including Mr. Akhavan, and I think you said my client had
25 arrived also?

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Hargreaves - Cross

1 A. Yes.

2 Q. And you said there were some peoples whose names you don't
3 remember?

4 A. That's correct.

5 Q. And there were people you didn't even know, correct?

6 A. That's correct.

7 Q. And is it your testimony that you discussed the payment
8 processing plan in that context, in that circumstance?

9 A. So this was quite a common theme when meeting with Ray,
10 that people would come and go. People would come through. It
11 was -- I wouldn't say it was a sit down with people, discussing
12 one thing at that meeting, and then they would go out and the
13 next people would come in. It was quite a -- people were
14 coming in and out and discussions would stop, start. So, yes,
15 that is the case.

16 Q. Was there any discussion of anything that was questionable?

17 MS. LA MORTE: Objection.

18 THE COURT: Overruled.

19 A. If there was anything questionable? My discussion --

20 THE COURT: So you were discussing in your meeting or
21 meetings with Ray some fraudulent plans, yes?

22 THE WITNESS: Are we talking about this specific
23 meeting?

24 THE COURT: I'm asking a question, yes or no?

25 THE WITNESS: Could you repeat the question, please?

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Hargreaves - Cross

1 THE COURT: Excuse me?

2 THE WITNESS: Would you mind repeating the question?

3 THE COURT: Yes. So in your meeting or meetings with
4 Ray, you discussed some fraudulent proposals, yes?

5 THE WITNESS: Yes.

6 THE COURT: And there were other people who came in
7 and out?

8 THE WITNESS: Yes, sir.

9 THE COURT: Were you concerned that they were finding
10 out that you were discussing fraudulent proposals?

11 THE WITNESS: Discussions stopped and started, sir.

12 THE COURT: Excuse me?

13 THE WITNESS: Discussions stopped and started.

14 THE COURT: I see. Go ahead, counsel.

15 MR. ARTAN: Thank you, your Honor.

16 BY MR. ARTAN:

17 Q. So from the point of asking about -- let me start over.

18 From the point of creating an application and someone
19 on your team sending it somewhere, is it your testimony you
20 have no other understanding of what happened beyond that point?

21 A. I mean, we had communication back. If the applications
22 were handed in and there were problems with them, we would
23 receive communications about amendments that needed to be made,
24 updated about documentation, but beyond that, no, I don't.

25 Q. So you don't know if any money went from one place to the

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Hargreaves - Cross

1 other, correct?

2 A. In relation to what?

3 Q. In relation to this structure, the Eaze structure.

4 A. Are you asking me whether I know whether the money -- was
5 whether these --

6 Q. Let me ask it differently. Do you have any understanding
7 of what acquiring banks were processing these applications
8 supposedly?

9 A. I only know the one -- I only know that we filled in
10 applications and submitted to either EUprocessing e-mail and a
11 number of the settlement banks. I don't know what happened
12 beyond that, no. I know that we received credentials, which
13 were also forwarded, but beyond that, I don't know.

14 Q. Okay. So you don't know which, if any, acquiring banks
15 processed these transactions, correct?

16 A. No, sir.

17 Q. I think we have a double negative. Forgive me. Do you
18 know if any acquiring banks processed these transactions?

19 THE COURT: Now, that's a different question. I
20 thought your previous question was directed at whether he knew
21 which acquiring banks, if any, processed these transactions.

22 And your answer to that is no, correct?

23 THE WITNESS: Yes, sir.

24 THE COURT: Now you want to know whether he knows
25 whether any of these were processed through acquiring banks?

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Hargreaves - Cross

1 MR. ARTAN: Yes, your Honor.

2 THE COURT: As opposed to knowing which acquiring
3 banks; is that the question?

4 MR. ARTAN: No, you're right. It was the two
5 questions. The first one because it was a double negative --

6 THE COURT: No, I understand. And the reason I took
7 the liberty of interrupting, other than the joy I always get
8 from doing so, is that your new formulation had other problems.

9 MR. ARTAN: Okay. Let me start all over, with the
10 hope that I evade whatever problem it was.

11 BY MR. ARTAN:

12 Q. Do you have any knowledge, personal knowledge, of any
13 acquiring bank processing these Eaze transactions?

14 A. Across the board, period? Or any of these banks as in the
15 banks that we created packs for?

16 Q. Across the board, any acquiring bank. Do you have any
17 personal knowledge that transactions were processed?

18 A. Clearhaus.

19 Q. And how do you know personally that that happened?

20 A. I can only go on the fact that we received payment
21 processing data -- sorry, transaction data from Clearsettle,
22 which was given to us to be able to provide to Paydantics.

23 Q. Okay. Let me be more clear in my question.

24 From January 2018 onward, do you have any knowledge of
25 any acquiring bank processing for Eaze?

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Hargreaves - Cross

1 A. No, I do not.

2 MR. ARTAN: Your Honor, I've got two areas. Each one
3 will take about ten minutes, and if you'd mind, I'd rather not
4 start them up.

5 THE COURT: Okay. So we will let you go for today.
6 Tomorrow we're starting at 10:15 rather than 9:45 because of
7 another matter that I have to handle before that. So again,
8 please be in the jury room a little bit before 10:15, but it's
9 a half-hour later than it normally is. I know that breaks your
10 heart, but bear up with it as best you can. All right. See
11 you tomorrow. Have a good evening.

12 (Jury not present)

13 THE COURT: Okay. Please be seated. So I have the
14 greatest respect for all counsel in this case, but --

15 MS. LA MORTE: Oh, your Honor, should we excuse the
16 witness?

17 THE COURT: Oh, I'm sorry. You're excused until
18 tomorrow.

19 Thank you very much.

20 (Witness temporarily excused)

21 So I have the greatest respect for all counsel in this
22 case, but I do expect all counsel to be more careful than
23 perhaps they have been in putting questions and comments. For
24 example, Mr. Gilbert, at some point in the last hour or so, you
25 said as a flat statement -- I'm sorry?

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Hargreaves - Cross

1 MR. ARTAN: I'm Artan.

2 THE COURT: I'm sorry.

3 MR. ARTAN: I don't want my colleague to get in
4 trouble.

5 THE COURT: I'm sorry. When everyone is behind a
6 mask, it's -- you know, you all look fungible to me. Anyway,
7 you said, the flight records say he came and left on the same
8 day, or words to that effect. That was a statement of fact by
9 you. No lawyer should ever, ever become a witness and make a
10 statement of fact.

11 You don't have the capacity to do that. You don't
12 have the right to do it, and it is misleading to the jury. You
13 can put a question in a form: Isn't it a fact that... and,
14 within limits, you can then follow it up with if, it's
15 something that this witness would have within his knowledge,
16 which you can then say: didn't you see him come and leave on
17 the same day, or something like that, but not what you did.

18 MR. ARTAN: If I could just briefly, your Honor?

19 THE COURT: Yes.

20 MR. ARTAN: And I won't belabor it. We did have a
21 stipulation as to when he left. My normal practice is to say,
22 isn't it true; so I blew that one. I'm not trying to get out
23 of that.

24 THE COURT: I don't care what stipulations and what's
25 in the record or not in the record. I understand. I know you

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1 weren't intentionally doing something wrong. I'm just trying
2 to tell you for future reference I don't want anything but
3 questions.

4 I don't also approve of comments, which you gave
5 several of -- although, it's of lesser importance -- I don't
6 understand your answer, as you said to him several times. No
7 one cares whether you understand his answer or not. Just put
8 another question. Got it? Very good.

9 Anything else we need to take up now?

10 MR. TAYBACK: Nothing on behalf of Mr. Akhavan.

11 MR. ARTAN: Can we do the post-arrest statement, your
12 Honor?

13 THE COURT: Unfortunately, I'm going to arrive right
14 at 10:15.

15 MR. ARTAN: Well, later in the day tomorrow. This
16 doesn't come up for some time.

17 THE COURT: Fine. How much longer are you going to
18 be?

19 MR. ARTAN: Well, I want to talk to my colleagues, but
20 I think it would be under half an hour.

21 THE COURT: Okay. What I'll ask you to do is
22 tomorrow, right before we begin, give me a more or less
23 binding -- you can't do it now, but after you talk to them; I
24 won't hold you to it absolutely -- but fairly precise. And
25 then I'll want to know -- this will be more of a ballpark

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1 because you haven't started yet, but -- approximately how long
2 you're going to be. You can tell me that in the morning.

3 MR. TAYBACK: I will tell you, your Honor, in the
4 morning.

5 THE COURT: All right. Anything else?

6 MS. LA MORTE: No, your Honor, not from the
7 government.

8 THE COURT: Very good. Thanks a lot.

9 oh, there is one other thing, I'm sorry, and think
10 want to double-check that I have it right. I interrupted
11 counsel on the -- I'm sorry, please be seated. You put a
12 question to the witness along the lines of: and then at the
13 sentencing, the government and the defense are going to make a
14 sentencing recommendation to the judge.

15 MR. ARTAN: Mr. Gilbert --

16 THE COURT: In this district, that's not the way it
17 works.

18 MR. ARTAN: Mr. Gilbert set me straight on that. I
19 apologize for that.

20 THE COURT: Again, you know, it was not a big point,
21 but I just wanted to make sure you get it corrected.

22 MR. ARTAN: I did. I followed up there, and I
23 realized where my mistake might have been.

24 THE COURT: No, the government in this district never
25 makes, almost never -- not always, but very rarely makes a

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1 specific recommendation.

2 MR. ARTAN: It's the exact opposite --

3 THE COURT: They just say things like, his assistance
4 was magnificent, it was fantastic, we've never had someone who
5 was so wonderful and, of course, that doesn't convey any
6 message at all to the judge.

7 MR. ARTAN: In California, there's fights over very
8 specific sentencing issues. I kind of like it the way you do
9 it, your Honor.

10 THE COURT: California is known for its
11 idiosyncrasies.

12 (Adjourned to 10:15 a.m. on March 10, 2021)

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